

Buck Versus Bell

Buck v. Bell, was the United States Supreme Court ruling that upheld a statute instituting compulsory sterilization of the mentally retarded "for the protection and health of the state." It was largely seen as an endorsement of negative eugenics—the pseudoscience to improve the human race by eliminating "defectives" from the gene pool.

Background

In 1924, the state of Virginia adopted a statute authorizing the compulsory sterilization of the mentally retarded for the purpose of eugenics. On September 10 of the same year, Dr. Albert Sidney Priddy, superintendent of the Virginia State Colony for Epileptics and Feeble-minded, filed a petition to his Board of Directors to sterilize Carrie Buck, an 18-year-old patient at his institution who he claimed had a mental age of 9. Priddy maintained that Buck represented a genetic threat to society. According to Priddy, Buck's 52-year-old mother possessed a mental age of 8 and had a record of prostitution and immorality. She had three children without good knowledge of their parentage. Carrie, one of these children, had been adopted and attended school for five years, reaching the level of sixth grade. However, according to Priddy, she had eventually proved to be "incorrigible" and eventually gave birth to an illegitimate child. Her adopted family had committed her to the State Colony as "feeble-minded" (a catch-all term used at the time for the mentally disabled), no longer feeling capable of caring for her. It was later discovered that Carrie's pregnancy was not caused by any act of "immorality" on her own part. In the summer of 1923, while her adoptive mother was away "on account of some illness," her nephew raped Carrie, and her later commitment has been seen as an attempt by the family to save their reputation.

The case

While the litigation was making its way through the court system, Priddy died and his successor, Dr. James Hendren Bell, was substituted to the case. The Board of Directors issued an order for the sterilization of Buck, and her guardian appealed the case to the Circuit Court of Amherst County, which sustained the decision of the Board. The case then moved to the Supreme Court of Appeals of Virginia. Carrie's lawyer, Irving Whitehead, poorly argued her case, failed to call important witnesses, and was remarked by commentators to often not know what side he was on. It is now thought that this was not because of incompetence, but deliberate. Whitehead had close connections both to the counsel for the institution, and Priddy himself. He was also a member of the governing board of the state institution Carrie was at, and had personally authorized Priddy's sterilization requests and was a strong supporter of eugenic sterilization. The appellate court sustained the sterilization law as compliant with both the state and federal constitutions, and it then went to the United States Supreme Court. The plaintiff's lawyers argued that this procedure ran counter to the protections of the 14th Amendment.

On May 2, 1927, in an 8-1 decision, the Court accepted that she, her mother and her daughter were "feeble-minded" and "promiscuous," and that it was in the state's interest to have her sterilized. The ruling legitimized Virginia's sterilization procedures until they were repealed in 1974.

Carrie Buck was operated upon, receiving a compulsory salpingectomy (a form of tubal ligation). She was later paroled from the institution as a domestic worker to a family in Bland, Virginia. She was an avid reader until her death in 1983. Her daughter Vivian, who was also sterilized, did very well in her two years of schooling, once being on the school's honor roll. She died at the age of eight.

U.S. Supreme Court

BUCK v. BELL, 274 U.S. 200 (1927)

274 U.S. 200

BUCK

v.

BELL, Superintendent of State Colony Epileptics and Feeble Minded.

No. 292.

Argued April 22, 1927.

Decided May 2, 1927.

[274 U.S. 200, 201] Mr. I. P. Whitehead, of Lynchburg, Va., for plaintiff in error.

[274 U.S. 200, 203] Mr. A. E. Strode, of Lynchburg, Va., for defendant in error.

[274 U.S. 200, 205]

Mr. Justice HOLMES delivered the opinion of the Court.

This is a writ of error to review a judgment of the Supreme Court of Appeals of the State of Virginia, affirming a judgment of the Circuit Court of Amherst County, by which the defendant in error, the superintendent of the State Colony for Epileptics and Feeble Minded, was ordered to perform the operation of salpingectomy upon Carrie Buck, the plaintiff in error, for the purpose of making her sterile. 143 Va. 310, 130 S. E. 516. The case comes here upon the contention that the statute authorizing the judgment is void under the Fourteenth Amendment as denying to the plaintiff in error due process of law and the equal protection of the laws.

Carrie Buck is a feeble-minded white woman who was committed to the State Colony above mentioned in due form. She is the daughter of a feeble-minded mother in the same institution, and the mother of an illegitimate feeble-minded child. She was eighteen years old at the time of the trial of her case in the Circuit Court in the latter part of 1924. An Act of Virginia approved March 20, 1924 (Laws 1924, c. 394) recites that the health of the patient and the welfare of society may be promoted in certain cases by the sterilization of mental defectives, under careful safeguard, etc.; that the sterilization may be effected in males by vasectomy and in females by salpingectomy, without serious pain or substantial danger to life; that the Commonwealth is supporting in various institutions many defective persons who if now discharged would become [274 U.S. 200, 206] a menace but if incapable of procreating might be discharged with safety and become self-supporting with benefit to themselves and to society; and that experience has shown that heredity plays an important part in the transmission of insanity, imbecility, etc. The statute then enacts that whenever the superintendent of certain institutions including the abovenamed State Colony shall be of opinion that it is for the best interest of the patients and of society that an inmate under his care should be sexually sterilized, he may have the operation performed upon any patient afflicted with hereditary forms of insanity, imbecility, etc., on complying with the very careful provisions by which the act protects the patients from possible abuse.

The superintendent first presents a petition to the special board of directors of his hospital or colony, stating the facts and the grounds for his opinion, verified by affidavit. Notice of the petition and of the time and place of the hearing in the institution is to be served upon the inmate, and also upon his guardian, and if there is no guardian the superintendent is to apply to the Circuit Court of the County to appoint one. If the inmate is a minor notice also is to be given to his parents, if any, with a copy of the petition. The board is to see to it that the inmate may attend the hearings if desired by him or his guardian. The evidence is all to be reduced to writing, and after the board has made its order for or against the operation, the superintendent, or the inmate, or his guardian, may appeal to the Circuit Court of the County. The Circuit Court may consider the record of the board and the evidence before it and such other admissible evidence as may be offered, and may affirm, revise, or reverse the order of the board and enter such order as it deems just. Finally any party may apply to the Supreme Court of Appeals, which, if it grants the appeal, is to hear the case upon the record of the trial [274 U.S. 200, 207] in the Circuit Court and may enter such order as it thinks the Circuit Court should have entered. There can be no doubt that so far as procedure is concerned the rights of the patient are most carefully considered, and as every step in this case was taken in scrupulous compliance with the statute and after months of observation, there is no doubt that in that respect the plaintiff in error has had due process at law.

The attack is not upon the procedure but upon the substantive law. It seems to be contended that in no circumstances could such an order be justified. It certainly is contended that the order cannot be justified upon the existing grounds. The judgment finds the facts that have been recited and that Carrie Buck 'is the probable potential parent of socially inadequate offspring, likewise afflicted, that she may be sexually sterilized without detriment to her general health and that her welfare and that of society will be

promoted by her sterilization,' and thereupon makes the order. In view of the general declarations of the Legislature and the specific findings of the Court obviously we cannot say as matter of law that the grounds do not exist, and if they exist they justify the result. We have seen more than once that the public welfare may call upon the best citizens for their lives. It would be strange if it could not call upon those who already sap the strength of the State for these lesser sacrifices, often not felt to be such by those concerned, in order to prevent our being swamped with incompetence. It is better for all the world, if instead of waiting to execute degenerate offspring for crime, or to let them starve for their imbecility, society can prevent those who are manifestly unfit from continuing their kind. The principle that sustains compulsory vaccination is broad enough to cover cutting the Fallopian tubes. *Jacobson v. Massachusetts*, [197 U.S. 11](#), 25 S. Ct. 358, 3 Ann. Cas. 765. Three generations of imbeciles are enough. [274 U.S. 200, 208] But, it is said, however it might be if this reasoning were applied generally, it fails when it is confined to the small number who are in the institutions named and is not applied to the multitudes outside. It is the usual last resort of constitutional arguments to point out shortcomings of this sort. But the answer is that the law does all that is needed when it does all that it can, indicates a policy, applies it to all within the lines, and seeks to bring within the lines all similiary situated so far and so fast as its means allow. Of course so far as the operations enable those who otherwise must be kept confined to be returned to the world, and thus open the asylum to others, the equality aimed at will be more nearly reached.

Judgment affirmed.

Mr. Justice BUTLER dissents.