

the threat of one of its most powerful members to withdraw entirely—a right which Mr. Javits would expressly give to members of the association. While a provision merely forbidding selling below cost—as Mr. Javits suggests—is perhaps economically sounder than arbitrary price-fixing, an essential element in the Swope plan, in this one important respect, at least, that is, compulsory membership, the latter plan offers more assurance of success.

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Human Sterilization. By J. H. Landman. New York, The Macmillan Company, 1932. pp. xviii, 341. \$4.00.

“I teach you the Superman! Man is something that shall be surpassed. What have ye done to surpass him? All beings that have come into the world heretofore have created something beyond themselves. Are ye going to be the ebb of the tide? Are ye going back to the animal Or ahead to the superman? Behold, I teach you the superman!”
Also sprach Zarathustra, I. Nietzsche.

This book on human sterilization would make a good preface to a book on human sterilization. For although the author does fail to elaborate some of the most vital elements innate in this problem of sterilizing human beings, he suggests all of the usual ramifications of the subject. The text deals essentially with the sterilization of the cacogenic, or socially inadequate people, the morons, imbeciles and the otherwise deficient. The historical features of the subject are traced, the current status of the movement indicated and possible future developments pointed out. Interlaced in a consideration of sterilizing are problems of sociology, psychology, surgery and the law. Dr. Landman endeavors to outline the aspects of the topic in these various fields.

In the matter of the surgery of human sterilization he has given a detailed study. He propounds the manner in which vasectomy and salpingectomy are performed and with what results. That vasectomy is probably a perfect method is his conclusion. Other types of operations are taken into account and evaluated. Particularly significant is his emphasis of the fact that castration is altogether unnecessary, and further that it has been shown that the individual after the operation continues as a general rule to function normally or in an improved state of health.

Discussing the legislation relative to human sterilization and the consequent litigation, the author is thorough. Such legislation in each of the thirty States where it has been passed at one time or another is reviewed. Part II is devoted to a summary of the leading decisions which form the basis of our modern statutes and the present legal status of those laws. The unconstitutionality of human sterilization laws has been argued on various grounds: that they deny due process of law; sanction cruel and unusual punishment; prevent the individual subjected to the operation from exercising his right of life, liberty and the pursuit of happiness; that they are in violation of the Fourteenth Amendment, since they are class legislation denying equal protection of the laws; in one instance, that a state law was unconstitutional since it operated as a Bill

of Attainder—which contention the court upheld;¹ while, in another case, a state sterilization law was attacked because it provided that a eugenic board should determine who should be sterilized, and it was contended that this was an usurpation of a judicial function by a ministerial board.² Landman's work comprises a careful analysis of each of these contentions and the judicial rulings made thereon. It is shown how the ruling in the case of *Buck v. Bell*³ upholding as constitutional a state human sterilization statute⁴ is supplemented by the decision in *Davis, Warden v. Walton*⁵ where the court lays down the limitation that human sterilization laws are to be enforced only in those instances where it is proved that the patient has inherited his insufficiency and will in all likelihood transmit it to his or her offspring.

Coming to the sociological and psychological phases of the problem as the book presents them, we find a treatment incommensurate with the subject, in that the author merely suggests where it would seem that he should completely analyze. He builds this book on the hypothesis that the arbitrary standards which society has set up and by which the adequacy of the individual is gaged are the correct standards. He overlooks entirely the possibility that should society adopt a different set of arbitrary standards the misfits and cacogenic people of today's system might be the superior beings. He presumes on the proposition that there is such a thing as a normal human being, but into the class of mentally diseased and deficient which he specifies could fall some of the most brilliant minds. Whereas he suggests that unfavorable conditions are known to have a definite detrimental effect upon even the so-called normal members of the human stock, he indicates only that we do have to consider the differences in environment and points out the different theories as to the relative importance of environment, without fully considering them. The results of experimentations of guinea pigs are repeated, and although the author recognizes that guinea pigs are after all not human beings and that consequently experiments on them can not afford a sure criterion for the development of the human being, he does not duly emphasize the fact that society does not, as does the breeder of guinea pigs, create and then regulate the environment in which the animal grows; that society, rather, judges its individuals in the environment where it finds them, whereas the breeder of pigs puts them in a planned environment and then judges them. Dr. Landman, in effect, is asking whether we shall sterilize to improve the quality of the race without sufficiently considering whether or not we should first create the most favorable environment.

In the psychological field he finally stipulates away the case for human sterilization for eugenic purposes. He admits that science has not as yet been able to ascertain how much is inherited and how much acquired. There are only theories. Further does he admit that it is not alone those whom, by our arbitrary standards, we would classify as feeble-minded, or otherwise inadequate, who beget feeble-minded offspring. There are also normal human beings of the so-called "normal intelligence" who possess latent feeble-minded qualities which they transmit to their offspring. Science is still admittedly in the experimental state of investigating human inheritance. There still are serious conflicts in the theories advanced. Statistics are produced which admittedly are incomplete and therefore misleading. But in the midst of this scientific uncertainty stands the gleeful advocate of eugenics reiterating that twenty-seven States have human

¹*Davis v. Berry*, 216 Fed. 413 (D.C. Iowa 1914).

²*Board of Eugenics v. Troutman*, 299 Pac. 668 (Idaho 1931).

³274 U.S. 200, 47 Sup.Ct. 584, 71 L.Ed. 1000 (1927).

⁴Va. Laws 1924, c.394.

⁵74 Utah 90, 276 Pac. 921 (1929).

sterilization legislation and over twelve thousand persons already have been subjected officially to the operation.

Dr. Landman proposes that segregation rather than sterilization might more properly solve the problem of what is to be done with the socially inadequate people. But he does not at all discuss what must be a foremost question in any consideration which presumes that our present arbitrary standards are the ones upon which to build the normal man, and which on the basis of that standard designates certain individuals as mental deficient. I refer to the question of outright extermination of the "unfit." One of the leading reasons assigned for the necessity for human sterilization of the incompetent is state economy. It is urged that caring for these cacogenic persons—whether in hospitals, insane asylums, prisons or institutions for the feeble-minded—costs the State vast sums of money. Besides there is the damage done by defectives abroad in society. If individuals are so imperfect that society feels it necessary to prevent them from perpetuating themselves in the race lest they burden future generations with the care of their offspring, why not just exterminate them now and rid the State once and for all of the burden? Surely a survey which purports to outline the field of inquiry into the problem of human sterilization and its ramifications is incomplete unless it considers this possibility.

However, whatever criticism may be directed against the book, it is to be favored as at least prefatory to some of the multitudinous questions that arise out of this problem of sterilizing human beings.

In conclusion, we wish to observe that Dr. Landman felt it well to quote from Mr. Justice Holmes's opinion in the case of *Buck v. Bell*⁶ and to criticize it as lacking in legal principles and in lacking a thorough understanding in eugenics.⁷ But we submit that if one is to support human sterilization as justifiable, Holmes has stated that justification in a finely sententious manner. We quote from the opinion as follows:

"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. . . . Three generations of imbeciles are enough."⁸

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Regulation of Public Utilities. By Cassius M. Clay. New York, Henry Holt and Company, 1932. pp. xi, 309. \$3.50.

"A Crucial Problem in Constitutional Government" is the subtitle of this book. The truth of that phrase as descriptive of public utility regulation can not be gainsaid. We are today, in this country, almost ready to concede the accuracy of the prophecy made in 1911 by that learned and prescient economist, Professor F. W. Taussig, when he wrote: "It is not too much to say that the future of

⁶274 U.S. 200, 47 Sup.Ct. 584, 71 L.Ed. 1000 (1927).

⁷P. 98.

⁸*Buck v. Bell*, 274 U.S. 200, 207, 47 Sup.Ct. 584, 585, 71 L.Ed. 1000, 1002 (1927).