

Yes, Our Client Was Overpaying BPOL Tax

I want to thank Craig D. Bell and J. Christian Tennant of McGuireWoods for their excellent article, “Is Your Client Overpaying BPOL Tax?” in the October 2009 issue of *Virginia Lawyer*. Their review of our firm’s victories in the Lynchburg Circuit Court and the Supreme Court of Virginia in *City of Lynchburg v. English Construction Company Inc., et al.* was thorough and provided an appropriate warning to the state tax bar to monitor if and how local revenue officers implement the Supreme Court’s decision. If the testimony of the commissioners of revenue during my cross-examination is any indication, the *English Construction* decision will not stop localities from overassessing our business clients.

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Law Should Protect Rights of All Humans

Thank you for Robert T. Adams’s book review, “Virginia Forced Sterilization Case is Still Law, Eighty Years Later” (*Virginia Lawyer*, February 2009), which I found quite thought-provoking. It is indeed astonishing and embarrassing that, as author Paul A. Lombardo explains in his book, *Three Generations, No Imbeciles: Eugenics, the Supreme Court and Buck v. Bell*, the Supreme Court decision of *Buck v. Bell* (1927) upholding the compulsory sterilization of the mentally disabled has never been overruled.

According to Lombardo (Adams tells us), the Supreme Court’s later decision in *Roe v. Wade* (1973), erodes *Buck v. Bell*. I disagree. *Roe* in fact cites *Buck v. Bell* in support of its privacy analysis (see *Roe*, 410 U.S. at 154). And more fundamentally, by embracing the idea that some human lives (namely, unborn children) can be profoundly discounted in assessing the comparative rights at stake, *Roe* in fact provides a precedent to cement *Buck*’s discounting of the “feeble-minded.”

Until we pledge ourselves to the bedrock notion of *human* rights—that membership in the species *Homo sapiens* alone suffices to entitle one to basic human respect and protection, regardless of one’s mental or physical capacities, appearance, age, or lifespan—the temptation will always be there to subjugate some particular (and powerless) category of human beings for the perceived advantage of others.

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