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**A REVIEW OF THE LAWS OF MINNESOTA RELATING TO THE
FEEBLEMINDED
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After studying the laws of Minnesota relating to the feeble-minded, it seems to me the most interesting way to present them to you is to trace their development, as it reveals a gradual and almost steady advance in realizing the existence of a feeble-minded group and in making provisions for their care. I shall try, in outlining the laws especially of today, to also indicate policies in carrying them out.

At the first meeting of the legislature of the Territory of Minnesota, in 1851, a law was passed (Article III, Sec. 17) delegating to the Judge of the Probate Court, the care and custody of the person and property of "Idiots, lunatics and other persons of unsound mind, and of persons who in consequence of habitual drunkenness or for any other cause are incapable of the proper care and management of their own property, all of whom are known in the statute as insane persons or habitual drunkards." The law then contains some directions for appointment of guardians and caring for estates.

In the General Statutes of 1866 we find some simplification in relation to the appointment of a guardian. It is stated that upon application of a relative, friend or county commissioner, a guardian may be appointed by the Probate Judge, the guardian to have the care and custody of the person and management of the estate of the "insane" person. There is no definition of insane in this part of the statutes, but in a section headed "Construction and repeal" we find the definition, as follows: "The words 'insane person' shall include every idiot, noncompes, lunatic and distracted person." This definition remains in the statutes today, although there are and have been special definitions. In fact, in 1868 in the statutes relating to the insane, we find: "The term 'insane' as used in this act includes every specie of insanity but does not include idiocy or imbecility." This definition of insane and negative definition of idiocy and imbecility remained in the laws until 1917.

In 1866 a commission was appointed by the legislature to locate a site for a State Hospital and after securing proper land, seven trustees who were appointed, were authorized to erect a building to care for immediate needs but to adopt a plan of building which would be extended to meet probable future wants of the state. When arrangements were perfected all insane persons (and this of course in 1866 included the "idiots") under the care of the state, were to be transferred as well as some in the Iowa asylum. The law then made provisions for hearings under certain conditions.

In 1868 in addition to changing the definition, there were amendments which considerably clarified the commitment law. Private patients were defined as those sent to the Hospital by relatives or friends and maintained by them. Apparently the reason for commitment was primarily because of indigence. The Probate Judge, after information

was filed asserting that there was an insane person needing care and treatment, was authorized to appoint a doctor to ascertain the fact of insanity and give a written certificate, then the Judge must ascertain if the person was really destitute. Only if destitute, could he issue a warrant to take him to a Hospital. Relatives were always permitted to have charge if they desired-unless there had been criminal acts-but might be asked to furnish bond.

In 1874 a law was passed and somewhat amended in 1877 (1874 C. 19- Par. 3-1877 C.42 Par. 4) authorizing the Governor to appoint two members of the State Board of Health, who with the Superintendent of the State Hospital for the Insane should examine the patients supported at the Hospital at least once in every six months to see if there were any who were not proper subjects, what is "not insane, but idiotic or weak-minded or harmlessly demented or imbeciles." If so, they were to be returned to their counties except that if the counties had no place to care for them, "the weak-minded or demented" might be left at the Hospital and paid for by the county. It appears that even so, the idiotic and imbeciles were to be returned. However, there was one provision that seemingly applied to all since no patient was to be returned to a county where crops had been seriously damaged by grasshoppers, until one year after the grasshoppers had disappeared!

It was not until 1879 (1879 C. 31, P. 3-4-5-6) that definite provision was made for the care of some of these and incidentally for the first, the term "feeble-minded" is here used. In this year a commission to examine patients was changed to three doctors, one of whom must be a member of the State Board of Health, and they were given authority for transferring the idiotic and feeble-minded children who were proper subjects for "training and instruction" to the asylum for the deaf, dumb and blind at Faribault. The authorities there were authorized to arrange space, provide a proper teacher and attendants and also to return to parents or county commissioners if upon trial children proved incapable of receiving benefit from such instruction. The law goes on to say that "Nothing in this act shall be construed as establishing a permanent institution for the support and education of the persons herein named."

Progress continued, however, and in 1881 (1881 C. 145, Sec. 1-5) an act was passed by the legislature "to organize a school for idiots and imbeciles" to be established in connection with the Minnesota Institute for the Deaf, dumb and Blind at Faribault, a department styled the "Minnesota school for Idiots and Imbeciles." This early act made provision for the new school to be under the same Board of Directors who could make necessary rules and regulations; and "to provide for the care and custody of the idiotic and the training and education of the feeble-minded entrusted to their care." It specifically provided for transfers from the Hospital for the Insane and for discharge if otherwise provided for or if the child or youth had become capable of self-support, in the opinion of the superintendent. It further provided that relatives were responsible for an amount not to exceed \$40.00 per year, or if indigent, the county would pay this amount.

In 1887 we find an Act for the Better Regulation of the Minnesota Institute for the Deaf, the Blind and the Feeble-Minded. (1887 C.20 Sec. 1-12). Here the name was

changed to "The Minnesota Institute for Defectives", with three separate departments. School for the Deaf, School for the Blind, and School for the Feeble-Minded. The Board of Directors were authorized to provide relief and instruction of the deaf, blind and feeble-minded and care and custody for the epileptic and idiotic of the state. This I believe is the first mention of the epileptic. The directors were empowered to introduce and establish such trades and manual industries as in their judgment would best train their pupils for future self-support. All inmates must be state residents and the deaf, blind, and feeble-minded must be, in the opinion of the superintendent, of proper age and capacity to receive instruction, but prevented by their "defects" from proper training in the public schools. Care of all was to be free, but relatives must furnish clothing, postage and transportation and for county charges, not to exceed \$40.00 a year must be paid as the amount fixed to cover these expenses. This general set-up remained until 1905, when the School for the Feeble-Minded and the Colony for Epileptics were separated from the other institutions. The same conditions of entrance held, but nothing was said concerning discharge; either the relatives or county were required to pay \$40.00 a year.

Meantime, in 1901, the State Board of Control had been created by law to have charge of all institutions instead of the old Boards of Directors. In creating the Board of Control, authority was given to it to "gather, compile and disseminate" information embodying the experience of this and other countries with various types on institutions and methods of caring for the insane, defective and criminal classes. It provides for scientific research, publishing of reports and keeping statistical records, the total annual expenditure under the act not to exceed \$500.00. It was under this act that the Board of Control first employed Dr. Kuhlman at Faribault in 1910 and began a scientific mental testing program. Also in 1901 (1901-C. 234) we find the first of the laws showing a eugenic attitude toward the feeble-minded. The law states that no woman under the age of forty-five or man of any age, except he marry a woman over forty-five, either of whom is epileptic, feeble-minded or afflicted with insanity, shall marry any one in the state; no officer shall issue a license knowing them to be so afflicted; no clergyman or officer shall perform the marriage ceremony and that "any person violating any of the provisions of the act is subject to a fine of not over \$1,000.00 or imprisonment for three years, or both."

However, in 1905 this law was made much less drastic. It was combined with the section setting forth certain other restrictions and after mentioning other conditions under which a marriage could not be contracted, continued as follows, "nor between persons either of whom is epileptic, imbecile, feeble-minded or insane." This is still the law except that in 1931 a law was passed establishing a five day waiting period after application for a license.

I have already noted that in 1905 a separate institution for the feeble-minded and epileptic was created. This law remained unchanged until 1917 except for one amendment in 1909 and two additional laws in 1907. In 1907 the Board of Control was authorized to employ parole agents for this institution as well as for the insane, these to perform such duties as were assigned by the Board of Control (not the Superintendents)

including "Assistance in obtaining employment and return of paroled patients when necessary."

Also in 1907 (C. 358-Sec. 1) a Judge of the District Court was permitted to send a person under indictment "but found to be insane, an idiot or an imbecile" to "the proper state hospital or asylum for safekeeping and treatment." It provides that he remain there until recovered and then be returned to the court. Three times in the last ten years this has been construed as applying to the School for the Feeble-Minded and used by the court.

The amendment in 1909 permitted the Board of Control to receive a helpless child, not feeble-minded, under certain conditions. This remains in the law but the Board can decline to receive any person applying under it. Necessarily it is very rarely used when there are not sufficient facilities to care for the feeble-minded.

The compulsory school attendance law (1911-C. 356-Sec. 1) passed in (*illegible*), but twice amended, exempts a child whose "mental condition is such as to prevent his attendance at school or application to study for the period required." The need of special training for teaching feeble-minded children became evident it would seem and in 1913 the legislature enacted a law permitting the Board of Control to conduct a course for this purpose at the School for the Feeble-Minded. A summer course was organized under the direction of Dr. Kuhlmann who was research director at the institution. This law also is still in the statutes, but has not been used since the summer school of 1912, as training could then be secured at the university.

The year 1914 was not a legislative one but in that year, the attorney general ruled that a feeble-minded child could be excluded from the public school by the School Board. Perhaps due to this and the fact that teachers were being trained, the 1915 legislature enacted a law, (1915-C. 194-Sec. 4 & 5) providing for the establishment of various types of special classes, among them classes for "mental subnormal children." Under this law, schools for such children must be under the control of the state superintendent of education, he must approve qualifications of teachers, it must be a nine months school and not less than five pupils between ages of four and sixteen years – later amended to read "of school age." If these conditions were met, the state would pay \$100.00 for each pupil. This is the law of today and the Department of Education has set certain standards which must be met. Some of those for 1931 are that fifteen shall be the maximum number in a class, "admission to these classes shall be restricted to pupils whose intelligence quotients range from 50 to 80 inclusive and whose mental age is not less than four years, as established by the official examiner and approved by the Commissioner of Education"; the physical record cards of pupils who are applicants for the class shall be sent to the State Research Director who is the official examiner and that each school district shall pay for the expenses of the official examiner incident to giving tests. Children to be eligible must be certified by the Commissioner of Education. It states "The instruction in these classes will be largely from the individual standpoint, based upon the capacities, interests, and needs of the pupils to the extent to which these may be ascertained."

Evidently the manner of entrance to the institution and more especially the inability of the authorities to hold persons sent was not entirely satisfactory, particularly to those interested in the social side of the question and in 1917 when a code of laws was drawn up for the protection of children, laws relating to the feeble-minded were included (1917 C. 344) and a Department for the Feeble-Minded created under the law for administrative and supervisory purposes. These exist today with some amendments largely clarifying doubtful points or making them more specific. The definition in the code is as follows: "The word 'defective' as used in this act shall include the feeble-minded, the inebriate and the insane. The term 'feeble-minded persons' in this act means any person, minor or adult, other than an insane person, who is so mentally defective as to be incapable of managing himself and his affairs, and to require supervision, control and care for his own or the public welfare." Provision is made for a hearing in the Probate Court of a county in which a person has settlement or "is found", to determine whether the person is feeble-minded. This is to be upon the petition of a relative or reputable resident of the county, the examining Board to be composed of the Judge and two physicians, the Judge required to give the Board of Control ten days notice of the hearing. The Board of Control may then send "a person skilled in mental diagnosis to examine the person and advise the Board upon its action"—that is the Board composed of the Judge and the two physicians.

If the person is found by the examining Board to be feeble-minded, the Judge shall commit him to the guardianship of the State Board of Control and the Board of Control shall have power to "lace him in an appropriate institution" or "to exercise general supervision over him anywhere in this state outside any institution through any child Welfare Board or other appropriate agency authorized by said Board of Control." There are, of course, many special provisions connected with the hearing such as requiring the county attorney to appear and protect the interests of the person, or permitting him to consent to holding the hearing without doctors if the person is obviously feeble-minded. As a matter of policy an intelligence quotient of .75 is set as the almost definite upper limit for which commitment is recommended, and examiner from Dr. Kuhlmann's office is the person usually sent as a "person skilled in the diagnosis of mental deficiency."

Usually the Child Welfare Board of a county has had contact with the person for whom the petition is filed and if the person is a menace or responsibility in the community and the family will not file, the Child Welfare Board does. Petitions are not generally filed by the Child Welfare Board, however, unless some type of social problem such as delinquency, illegitimacy, neglect or dependency. Persons considered proper subjects for commitment under such conditions vary greatly in different counties, dependent upon the education of the community regarding the feeble-minded. Even if the Child Welfare Board, Judge and doctors are socially educated and commitment is made, which, however, is far in advance of general public opinion, we have found to our sorrow that not only were we unable to accomplish anything more, but in some situations there has been an actual backset to further progress. Low and middle grade persons are usually filed on by families and also children in need of school opportunities. A County testing

program of Dr. Kuhlmann's office making testing in a county possible every three months if requested the Judge and social workers has made it a usual procedure to have a test given before a petition is filed and only in cases where there is probable doubt of the action of an examining board does the mental examiner actually attend the hearing. In addition to the test result, family history and school conduct and work records are given to the examining Board.

The law of course provides for a re-hearing in court and appeal to District Court if the friends or relatives feel that the guardianship of the State is unnecessary.

Since previous entrance to Faribault and the hospital for the insane had largely been voluntary unless indigent, the new commitment law permitted a superintendent to admit patients voluntarily. This has not been used in relation to the feeble-minded as guardianship with later supervision is an integral part of the social program of the care of the feeble-minded.

In 1923, a second institution primarily for epileptic persons was authorized for Cambridge, making definite provision for voluntary application for those of normal intelligence. This was opened in 1925.

Also in 1925, a law providing for an operation for sterilization of the committed feeble-minded and insane by vasectomy or tubectomy was passed. This requires the consent of the spouse or nearest relative and of the individual if insane. The Board of Control appoints a psychologist and physician to make an examination, and the recommendation of the Superintendent of the institution is necessary before authorization is given. As a matter of policy the consent of the feeble-minded ward is always taken before an operation is authorized. Operations are only performed in an institution, but many individuals enter the institution following commitment just for an operation, particularly married women under the age of forty—here again there is a great difference in counties, dependent upon the social viewpoint. (Incidentally, I may add there are at least two bills for an enlarged sterilization program ready for this meeting of the legislature.)

Also in 1925, another recognition of the possible or probable hereditary aspects of feeble-mindedness was recognized in a law passed (1925-Chapter 303) providing that a dependent child with one or both parents feeble-minded should be considered unsuitable for adoption until old enough for its own mentality to be determined.

There was an amendment in 1927 to the general statute providing for commitment and supervision, permitting the Board of Control to establish homes where wards might live, and under supervision be as near self-supporting as possible. We have Lynnhurst Girls' Club in Saint Paul but unfortunately work conditions are such that the girls are many of them far from self-supporting. It does, however, also fill a needed place in a supervision program for a larger group of girls than those living there.

Another amendment of 1927 permitted the examining board to commit a person brought before them and found "dangerous to the public" to the Hospital for the dangerously insane. This, I believe, has been used in only one county and not more than twice.

There are, of course, laws making abduction of a feeble-minded person a crime, providing for property guardianship and other specific matters necessary for care and supervision.

In 1929 (Chapter 277) a law was passed requiring nurses and school officials to keep a continuing health record for each pupil and record mental and physical disabilities, this card to be deposited with the State Board of Health when the child left school. Dr. Nielsen of the Education Department tells me this law has never been carried out. The Board of Health has a card furnished for health records but it is never filed with them and there is no place on it for showing mental disabilities.

The same law required doctors to report the mentally and physically handicapped not in school and the records made available to the Children's Bureau. However, if the defect is incurable or being cared for, provisions are made so that reports need not be sent the Board of Health. This law is probably known to few doctors, I believe.

I have now given an outline of the changes in the laws and may I here indicate briefly the steps that show an almost steady growth in public opinion in regard to this social problem reflected in legislative enactment? From the earliest days, incompetents were recognized and all classed together as "insane." Then followed institutional care for them as one group; a differentiation with the "imbeciles" to be sent home, this evidently was not accomplished and meantime the possibility of education for them was considered and so classification came with children having physical defects and thus institutional training; this idea was expanded greatly but meantime, in 1901, the eugenic aspect was given attention with a drastic marriage law modified in 1905. With the growth of the public school system and also the extension of the recognition of the possibility of training the feeble-minded, came classes in the public schools, these however only possible in a fairly large community. Next came a further recognition of the whole social question and the fact that indefinite supervision and control might be necessary and that parole from the institution should be carefully considered from the standpoint of environment - thus the 1917 guardianship laws. Again in 1925 came an increased consciousness of the eugenic aspect and so the sterilization law. Along with the actual changes in laws, there has further been a great change in the acceptance of mental test results and the recognition of the social problem created by the high grade feeble-minded.

With this recognition, however, comes conviction of the need for y ore changes. As I see it among the most necessary are means of securing adequate education for all sub-normal children instead of a very few, a knowledge of who is feeble-minded even before the social problem involved is in evidence in the particular case -that is, the census of which Dr. Kuhlmann has so long emphasized the need, a closer tie-up between the schools and other agencies interested in the feeble-minded so that interest and

supervision will continuous; better possibilities for local supervision by having a Welfare Board in every county with trained and paid executives; (a law providing for this is being introduced in this legislature) some broader plan for commitment and care of the defective delinquent. Perhaps some needed changes can be made under existing laws by greater cooperation between groups or changes in policies. For instance, the law of 1929, relating to the registration of mentally and physically defective children is a mandatory law, but has never had machinery set up for carrying it out. Certainly, it would seem that under this children with low intelligence can and should be included. If the Departments of education and Health and the Board of Control through Dr. Kuhlmann's office plan to cooperate in carrying out this law, would we not have a census of the school children who are feeble-minded? Perhaps if we scan our various programs we may find many similar situations.

At this session of the legislature, a committee from the Bar Association presents a re-draft of the whole probate code, including the laws relating to defectives. The main changes in these so far as the feeble-minded, epileptic and inebriate (although there is still and old definition of insane in the general statutes), for the feeble-minded and epileptic, the examining board may be composed of the Judge and two others, not necessarily doctors but "two persons skilled in the ascertainment of mental deficiency" with fifteen cent mileage for traveling expenses, the Board of Control must return a person to the court for discharge of guardianship some specific provisions are omitted such as the right of the Board of Control to send a mental examiner to the hearing for the purpose of testing the individual and advising the Board upon its action.

Even though this code revision passes, you can see that it is a revision and not an extension of provisions for social control. Thought and planning for an enlarged program looking into the future would seem to be the real function of this group, and the papers which follow will direct our thinking along these lines.

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