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The New Law for the Feeble-Minded.

F. Kuhlmann:—In legislation for the feeble-minded the interest of the feeble-minded person, the family from which he comes, and the State must all be taken into account. At different times in the history of the care for the feeble-minded different degrees of stress have been placed on these three aspects. The first institutions for the feeble-minded were schools solely, without the custodial feature. The idea was that the pupils could by special training be made entirely, or more or less normal and returned to society again to take their place among normal citizens. The first laws were guided by this idea. They made commitment voluntary on the part of parents and limited it to the school age of the pupil. The interest was in the child, but little if at all in the family, and without thought of the State. Although the idea of the possibility of improving the feeble-minded in this way by special training has been known for nearly a half century to be erroneous, many of our State laws are still based on it and the thought of cure or at least the hope on the part of the parents, still flourishes in the lay mind.

The second period produced a rapid development in number and size of special institutions, largely of a custodial character. Special training was and is still given, but only to the brighter cases, and only with the idea of teaching them useful activities, and never with that of cure. The laws of this period are guided by the thought of the family as well as by that of the child. The aim is to relieve the parents of the care of hopeless children, in the parents' interests and the interests of other normal children. It was the period during which the laws authorized the establishment of new institutions in most of our States, and appropriated heavily for their material growth and development.

We are now in a third period. The accumulation of cases in Institutions has gone on more rapidly than the growth in the latter's normal capacity; the institutions are over-crowded. We have a better knowledge of the vastness of their numbers, of the hereditary character of feeble-mindedness, and of the many evil consequences from lack of their care. The care of the feeble-minded has become truly a State problem, and the interest of the State in this problem, rather than that of the feeble-minded child or the family, has been in the foreground during the last decade. It is a period marked by the enactment of laws for compulsory commitment, compulsory detention, laws against marriage of the feeble-minded, and sterilization. The different States have not been all equally progressive. Most of the Southern States, the New England States, except Massachusetts, and the undeveloped States of the far West have done little or nothing. The remaining Eastern States and those of the Middle West have taken the lead.

A brief statement of the main features of the present Minnesota laws concerning the feeble-minded will show where Minnesota stands in general. I will then point out their strong and weak points, as I see them, and finally discuss what is needed further to make the present laws effective.

The new Minnesota law provides for compulsory commitment of any feeble-minded person to the Institution for the Feeble-Minded, indirectly through the State Board of Control. This includes equally cases of all ages, all grades of defectiveness, and both sexes, without any restrictions. The process of compulsory commitment is through petition to the Probate Court, trial before an Examining Board, and commitment to the care and custody of the State Board of Control. The law on the petitioning reads as follows:

"When any person residing in this State shall be supposed to be defective any relative, guardian, or reputable citizen of the county in which such supposed defective person resides or is found may file a verified petition in the probate court of the county, setting forth the name and residence of the supposed defective person and the facts necessary to bring such person within the purview of this act. Whereupon the probate judge shall after investigation, if the petition be sufficient, direct that the alleged defective person be brought before him." . .

On the appointment of the Board of Examiners the law reads: "When such person is produced in court the probate judge shall designate two licensed physicians resident in the State who with the probate judge shall constitute a board to examine such person and determine as to his defectiveness. . . . The probate judge shall notify the State Board of Control of the filing of the petition, . . . whereupon the board may at its discretion designate some person skilled in mental diagnosis to attend the hearing, examine the alleged defective and advise the board of examiners."

When a case is thus examined and tried, the law provides the following methods of disposal of the cases: "If the person is found to be feeble-minded, the court shall order him committed to the care and custody of the State Board of Control as guardian of his person. Thereafter the board shall have power whenever advisable to place him in an appropriate institution."

The new law also provides for compulsory detention in the School for Feeble-minded after a case is once committed, a necessary adjunct, of course, to the compulsory commitment. A case may be discharged from the Institution by the Board of Control on recommendation of the superintendent of the institution, or by the probate court which committed the case. "Any parent, guardian, relative or friend of a person

committed as aforesaid," the law reads, "may at any time file a petition for a hearing in the probate court which committed such person, to establish that the further guardianship of the Board of Control is not for his own or the public welfare. If such contention is sustained, the probate judge shall order the discharge of such person from guardianship."

Minnesota has had for some time a marriage law forbidding a feeble-minded person to marry. This law, of course, remains.

No other methods of providing for the feeble-minded besides institutional commitment are authorized by the Minnesota laws, aiming directly at the care of the feeble-minded. Important provisions, however, are made by the public schools in the establishment of special classes for the so-called, "subnormal" children. The State aid of a hundred dollars a year for every child placed in a special class has so far been the chief factor in getting them established. According to rules adopted by the State Department of Education these special classes for subnormals are limited, practically, to high grade feeble-minded children. The total enrollment in these classes will probably soon exceed the total population of the State institution for the feeble-minded.

What are the commendable features of these provisions the laws of Minnesota make for its feeble-minded? In a word, I may say that there is no state that on the whole provides better for this class of defectives than do the present laws of Minnesota. The aim in every case in the present Minnesota laws is commendable. In the first place, no distinction is made as to the kind of feeble-minded person that may be committed and thus in one act provides for all three interests, that of the feeble-minded person, the home and the State. It is important not to have any age limitation. The young case, if low grade, as well as the older case, is a burden to the home, and in the interests of the home, the State should relieve it. The young case, if high grade, is benefited the more by the special training of the institution the earlier that training begins. This is in the interests of the child. It is important not to return cases from the institution to society after they have passed school age. Institutional care and training cannot make them normal. At the end of their school age the time of their greatest danger to society begins. Permanent commitment to the institution is in the interest of the State. Secondly, it is important not to make any distinction as to the grade of mental development of the case that may be committed. The low grade needs the custodial care of the institution, the high grade child needs its special training, and the high grade adult needs the institution employment and protection, and thereby protecting society against the high grade adult. The people of this State are not likely to fully appreciate these advantages in their law, for Minnesota,

I believe, has never had any different law on this subject. About half of our sister states are not so fortunate in this matter.

The compulsory commitment feature of the Minnesota law is important. Parental affection for children is always stronger than reason, even where good reason exists. No regret or disgrace is ever greater than that of a feeble-minded child to the parent, if the feeble-mindedness is recognized as such by the parent. A voluntary commitment of a child on the part of the parent means such recognition with parents that are at all intelligent. The voluntary commitment is always a last-resort measure, and comes usually long after the time is passed when the full advantages of a commitment for the child, home or state can be attained. Compulsory commitment aims chiefly at the protection of society in forcing special care for dangerous cases. But it accomplishes more. The homes in which feeble-minded children are found are not always good homes; over some homes institution conditions would be a great improvement for the children. Compulsory commitment furnishes a means of helping such children. It may do even more than this, and work directly in the interest of the parents, though against their will. Nothing, to my mind, is more pathetic than the intelligent, capable mother uselessly spending most or all of her time and energy, and much of her fortune, if she has any, in the attempt to bring up a feeble-minded child. The compulsory commitment of such a case is charity in its highest form. From every point of view, this law is a step in the right direction. Minnesota has been very slow in taking it. Many of the other states have had compulsory commitment for some time.

Compulsory detention in the institution is, of course, necessary in order to make compulsory commitment effective. This needs no discussion. Likewise the justice and importance of the law forbidding feeble-minded to marry are so well recognized as to need no further consideration. The possible significance for the cause of the care and control of the feeble-minded, of the special classes in the public schools is but little realized. That I will discuss in a moment in another connection.

What now, are the shortcomings of the present law? I will discuss them under two headings.

(1) Faults in the law as it stands; and (2) inadequate provisions for its enforcement.

There are one or two places in the present law that are radically wrong, and they are at the most important points. Because of these defects the general aim of the law would in any case be bound to be for the most part defeated. The first defect is in Section 4, on petition-

ing for compulsory commitment. This leaves it to the judge alone to decide whether or not a petitioner is to receive consideration. After such petition is presented, "the probate judge shall after investigation, if the petition be sufficient, direct that the alleged defective persor be brought before him." Inasmuch as the law provides for a heavy punishment of anyone who "for a corrupt consideration or advantage or through malice" makes such petition, the precaution taken here is unnecessary. The resulting tendency will be for judges, who are usually laymen in the matter of diagnosing feeble-mindedness, to regard many cases of high grade feeble-minded as too obviously normal to require examination in court, and thus refuse to consider the petition. Also, the bringing of a case into court for mental examination is likely to be against the will of the parents, and if the latter have any political influence not all judges will remain indifferent to the relation this may have to their re-election to office. The law leaves the judge himself unprotected at this point.

The second defect is in Section 6, on the appointment of the board of examiners. This board shall consist of the probate judge, and two licensed physicians. A person skilled in mental diagnosis may be sent by the Board of Control to advise these examiners, but he is not himself a member of the examining board. It is still the delusion of the layman that a physician must be skilled in mental diagnosis because he is a physician. If feeble-mindedness were a matter of disease instead of a biological variation in mental development, sometimes, but usually not, accompanied by disease, there might be some grounds for appointing a physician as examiner. But feeble-mindedness is not a matter of disease, and the physician is not one bit more capable of diagnosing it than is anyone else who is entirely unfamiliar with this subject. The law is undoubtedly the result largely of this erroneous idea about the physician. What the effect will be is obvious. In fact, this is not a matter of prediction, for other States have had plenty of experience with examining boards of physicians and we know the result. High grade cases of feeble-mindedness will be passed by such boards as normal. There will be a special motive to err in this direction inasmuch as a mistake of diagnosing a normal person as feeble-minded will be discovered when such person is sent to the school for the Feeble-minded, and will reflect directly on the examining board. In States where commitment has been solely through the court and such examining boards of physicians it has been repeatedly impossible to get high grade cases committed, because such boards would diagnose as feeble-minded only the obvious, low grade cases. It is not clear to me why the law did not make the person skilled in mental diagnosis, whom the Board of Control may send, a member of the examining board instead of merely an advisor without a vote. Possibly the thought was that a

person skilled in mental diagnosis could not always be supplied when demanded, while physicians are plentiful. If so, there are two answers. The first is that considering the total number of feeble-minded residing in the State and the number one person could examine in a year, it is obvious that the final, permanent demand for skilled diagnosticians for this work could never possibly exceed two or three persons. Under present conditions it is not at all likely that the demand would take the full time of even one person. The second answer is that the law cannot attain its purpose and becomes useless if it does not provide what it recognizes as necessary, namely, a skilled diagnostician.

In a word, the present law is so framed that its operation is bound to fail to secure provision for the high grade feeble-minded, even if other necessary provisions had been made, but which are lacking. I do not anticipate any material change in the care of the feeble-minded in Minnesota as a direct result of the new law. The high grade feeble-minded constitute 75 per cent of the total existing number. For the United States as a whole about 40 per cent of the existing low grade cases are at present cared for in institutions; about 20 per cent of the middle grade are thus cared for; and less than 5 per cent of the high grade are in special institutions. Of these three grades the high grade plus a small upper portion of the middle grade are alone responsible for delinquency and crime, so far as this is related to feeble-mindedness; they produce more than three-fourths of the feeble-minded of the next generation, and alone are capable of receiving useful training. Time will not permit to show in further detail how tremendously important it is to secure provision for just this class of the feeble-minded which the present law, and all preceding laws anywhere, allows to escape.

This brings us to the second line of criticism, viz., inadequate provisions for the enforcement of the laws that exist. I do not mean to say that Minnesota is behindhand in this, for it is not. No state has as yet had the insight and courage to get out of the ruts of legislating on the few stock questions of form and manner of commitment, detention, marriage and sterilization laws. The right kind of laws on all these matters are important, with the exception of a sterilization law, but each and all are relatively inert and useless unless supported by supplementary legislation that will make it possible to enforce them. Compulsory commitment can be of no avail unless we have an institution to which to commit cases. Our present institution has for a number of years had a long waiting list of cases for whom commitment was sought voluntarily, but who could not be received because the institution was filled. Making commitment compulsory cannot add more. Again, compulsory commitment cannot commit until the cases that exist are found, assuming that we had an institution large enough for

them. The present law permits any reputable citizen to petition the probate court to have a case committed. But what citizen will interest himself scouring the community to find the feeble-minded and by what method would he do it if he were interested? The answer is that no one will petition for a case until after he has become troublesome, in other words, not until after the damage resulting from neglect is done. The law forbids the feeble-minded to marry, but the higher grade cases do marry almost invariably, and I doubt whether there is a single case on record in this State where this law has prevented a feeble-minded person from marrying, directly because of his feeble-mindedness. This is because marriage license clerks, and those performing marriage ceremonies, have no means of telling whether the parties presenting themselves are feeble-minded or not. This not only highly valuable but absolutely essential law can never be enforced because no provision whatsoever is made that would make enforcement possible.

There is one thing that is fundamental and necessary for practically all legislation concerning the feeble-minded, and as long as this is not provided by law or otherwise, there is but little possibility for much further progress. This is a knowledge beforehand of who and where the existing feeble-minded are. We need a complete name and address census of the feeble-minded. Consider what the present laws could accomplish if we had this!

If we had these concrete facts in place of theoretical estimates as to the number of the feeble-minded we could (1) persuade the people of the State and the law-makers to provide more ample institutional accommodations. (2) We could give special care and training to the trainable feeble-minded at an age when such training is most effective instead of beginning long after that period is past. (3) We could commit or otherwise provide for cases as soon as they showed delinquent tendencies, and thus prevent evils in place of trying to remedy them after their occurrence. This would affect from a fourth to a third of all present reformatory inmates, and a vastly larger number of delinquent that are never sent to reformatories. (4) By placing the list of names of the feeble-minded with the marriage license clerks we could enforce the marriage law, and prevent the marriage of all feeble-minded. This would not in itself eliminate illegitimate children of the feeble minded, but even so, it would be a conservative statement to say that it would eliminate three-fourths of the feeble-minded of the next generation. Here is surely an important point of attack, and by a very simple and entirely possible method.

The next question is how such a name and address census of all the feeble-minded is to be obtained. The simplest way would be to require a mental examination of all school children about whose mentality there could be any question. This requirement practically exists for the larger school systems in the provision made for special classes in the public schools. But it does not affect the smaller towns of much less than 2,000 inhabitants or the rural districts, because these have not enough feeble-minded to form special classes. Again, the establishment of these classes is optional and not compulsory with the local school authorities, and many are not taking steps to form these classes, though plenty cases exist. Further, no provision is made for these cases after they leave the special classes because of age. This subject is important enough to discuss at much greater length, but time will not permit. My contention is, in a word, that this name and address census of all the feeble-minded existing in the state is the fundamental requirement on which all legislation for the care of the feeble-minded must rest in order to be enforceable and effective, and that this census can be obtained best by providing for the mental examination of public school children.

G. C. Hanna (Faribault).—Mr. President, Ladies and Gentlemen: I have been asked to lead this discussion for five minutes; and I can only bring out one or two points which Dr. Kuhlmann covered. In the first place, the School for the Feeble-minded in this state is filled to capacity—nearly 1,700 enrolled, with about 400 more on the waiting list for admission; so that no matter how many laws are passed providing for the commitment of feeble-minded persons, whatever effort is made to take care of them, nothing can be done towards receiving them in the present institution until room is made either by death or by removal of the children who are there now.

It seems to have been the intention of the law in the past to provide for the feeble-minded children particularly, without very much reference to society. The institution is filled with helpless feeble-minded children of the imbecile and idiotic grades—there are very few high grade persons in the institution—especially males. At the present time the highest grade boys, who attempt to do the farm work and other work about the institution, have an average mental age of about six years. There are some relatively high grade feeble-minded girls, who constitute our most serious problem. These girls, for the most part, are there against their will; very often they are there against the will of their fathers, mothers or relatives. The new law will enable us to detain these girls, where otherwise they would go out and become a menace to society. If an effort is made on the part of the father to take out one of these girls—where experience teaches us that she will be a menace—we can have proper action brought before the probate court and detain her. The new law, it seems to me, looks toward protecting society as much as caring for the children.

The reformatory institutions—the boys' and girls' schools—in every state contain from 25 to 50 per cent of feeble-minded children. This fact is not generally known, but actual tests and measurements show it is true. The superintendents of these institutions know that when these persons are released from the institutions—for they must be released by law, as they are committed only until they are twenty-one years of age, or in the reformatories for two to fourteen year terms—they will get into trouble. Popularly, a reform institution should reform its population. It can, and does do it, where the mental age of the child is such that it can make any headway with it; but there is this 25 to 50 per cent which no sort of institution will reform, because there is no basis on which to work. The child is simply feeble-minded—he has no control over himself, and never will have; so the superintendent says that when a certain boy goes out he can write it down that within fifteen, or thirty, or forty days he will be in trouble again. He will be the prey of vicious persons in the community to which he goes. However good his intentions may be—he may have sworn by all that's good as to what he will do—he has no power to resist temptation along various lines.

Then there are the girls in the reform schools. They can't control themselves; they bring illegitimate children into the world, and not only are a serious problem, but their children are feeble-minded. With this new law these persons can be managed as soon as proper facilities are had. The girls, who constitute a menace, can at least be stopped after they have given birth to one illegitimate child. An habitual criminal, who is clearly feeble-minded and found so, after he is once committed, can be taken care of; for this new law has a provision that whenever a person is feeble-minded, he can be committed, after a proper proceeding in the probate court, to the care and authority of the Board of Control for the rest of his life and can be detained in a proper institution. As I understand this law, the Board of Control would have the authority to take a young man in the Reformatory at St. Cloud, who is known to be feeble-minded, and continue him at the Reformatory for the rest of his days, if it so wishes or if that is according to the best interests of society. This is not the principle of punishment, but it is on the principle that society must be protected from these men. I think this is the important thing about this new law—the machinery it has provided to enable society to protect itself. (Applause)

Mr. Hanna:—There are fewer than three hundred of our people who are epileptics, and the other 1,400 are feeble-minded. Some do border on insanity, and they are transferred to the State Hospital for the Insane.

Judge Waite:—I would like to enter a plea or apology on behalf of myself and my colleagues, for the commission helped to frame this law. There is nothing to be said in reply to the criticisms of Dr. Kuhlmann—they are true—but there are some extenuating circumstances. All legislation has to be the result of compromise, and it is only by getting together on main points, in spite of differences over a good many little things, that we ever get anywhere.

However—and it is really this that brings me to my feet—in regard to the danger which Dr. Kuhlman points out, that the probate judge might not entertain a petition when he ought to, and that he might not summon an expert to make a mental diagnosis when he had the opportunity to do it, and ought to do it, there is fortunately a remedy, and that is in having the probate judges of such character and conscience and intelligence that they will entertain the petition, will, in proper cases, make a demand or request for an expert examiner; and I think we may take courage in this respect. Nothing could be finer than the spirit that has been exhibited here by the large number of probate judges who have been in attendance. They have evidently come, acknowledging as we all do in the face of these most perplexing matters, that they have much to learn and they have been trying to learn, and I am sure they have learned. They will help to educate those who haven't come here, and after a while we shall have probate judges who will do the things the law makes it possible for them to do. (Applause)

Colonel Faulkner:—I would like to ask a question concerning the number of sane and insane epileptics included in the total population cared for at the School for Feeble-minded, and Colony for Epileptics.

President Davis:—We will have that answered just a little later. First we will go ahead with this discussion. We want to confine ourselves to a discussion of the new law and its operation. I feel confident that some of the commissioners would like to ask questions.

Mr. Vasaly:—I want to call Dr. Kuhlmann's attention to one fact, in regard to using physicians as examiners. There was a practical reason for that. We haven't got enough real psychologists to go around, and rather than have a half-baked one, it is perhaps better to have a physician than one who knows nothing at all. I think one of the dangers is that we have not enough psychologists of the type of Dr. Kuhlmann—we have so many who possess only a limited knowledge, which is a most dangerous thing. I presume it can be safely stated that there are not, in the State of Minnesota, a dozen persons who are capable and who ought to be trusted to settle this tremendous responsibility, and to put upon a person, perhaps, a sense of disgrace by saying that that person is feeble-minded—and especially in these delicate cases, which are so near the edge, and where most trouble comes from—in

the high grades. Those are the cases that make trouble in the prison and reformatory—they are the dangerous men and women, hard to recognize, and it takes someone like Dr. Kuhlmann to find out definitely what they are. A great many people who are posing as psychologists are not fit or competent to pass upon these people. If there are a dozen of them I think the State of Minnesota ought to be proud; and I hope that among the things to be considered will be the training of people competent to pass upon those things. (Applause)

I want to say, further, that it seems to me that such training is one of the things a state university ought to do—and I suppose it is doing it.

Mr. F. J. Bruno:—I am neither a psychologist nor a physician, but there is another element that has not been mentioned here, and that is the public. To the public, the commitment of a high grade feeble-minded person is practically a sentence for life without crime. No matter how much you may know the details, or the result of lack of restraint in the various groups of feeble-minded, the popular mind looks upon such a commitment as a sentence for life without crime; and before we can take those persons and place them beyond harm, we have an educational job before us which those of us who have been up against opposition, in trying to commit a high grade moron, have a slight conception of. I do feel that before we can take another step in the direction Dr. Kuhlmann states, that we have a tremendous piece of public education to undertake, or else the law will be ignored with impunity or else repealed. (Applause)

Dr. Todd:—I was just going to say the same thing. He will certainly have to prove it. You don't need to worry about that.

Dr. Aronovici:—While I am not entirely familiar with the local situation concerning the commitment of the feeble-minded, it seems to me that the method of selection is based upon the process of "first come, first served," instead of being closely related to the actual needs of those committed in the order of the seriousness of their condition in relation to the safety of the community.

Would it not be possible to establish a probation system throughout the State which would watch carefully those known to be feeble-minded and select from among them those who should be committed to institutions because they are dangerous to the community in which they live?

President Davis:—That relates to the better medical inspection in our schools.

Dr. Todd:—There has been also provision made in the law for vesting that guardianship in the Board of Control.

Mr. Ross:—The law acts when a person is adjudicated to be feeble-minded; then that person may be turned over to the care of the State Board of Control. The Legislature, as I recall it, furnished the engine on this particular car and the Governor threw a monkeywrench into it. Isn't that so, Mr. Vasaly? (Yes) We are talking now about something with 400 of the waiting list and 1,2000 who ought to be, and 1,700 in the institution.

Mr. Vasaly:—I think what you have reference to is that all the buildings we asked for at Faribault were not given to us. That is true; but since you are speaking of facts, there was some question whether we could expend money for this supervision; and the Attorney-General has finally ruled that putting a feeble-minded person in charge of the state makes him a definite charge of the state, and whatever it is necessary to do for that person is something that the Board of Control can pay out of its general contingent fund. (Applause)

Mr. Ross:—I think if we scatter our influence all over the state the next Legislature will have in mind that this institution is such a good thing for the people that it will make a larger appropriation for it.

President Davis:—Now I will ask Mr. Hanna if he will answer the question about the classification of epileptics.

Mr. Hanna:—There are fewer than three hundred of our people who are epileptics, and the other 1,400 are feeble-minded. Some do border on insanity, and they are transferred to the State Hospital for the Insane.

The meeting thereupon adjourned.

TUESDAY NIGHT SESSION.

War and the School Child.

Dean L. D. Coffman:—Teachers everywhere are interested in the social point of view in education. We have been discussing the social forces that play upon the school and community so long that practically every well-trained teacher today is familiar with certain phases of the social worker's work.

At this particular time there are certain specific social problems in which we ought to be interested. They are problems which chal-