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THE RIGHT TO MARRY



Issued by
*The North Dakota
Department of Public Health*
In Cooperation with
The United States Public Health Service

"Sec. 4375 AFFIDAVITS TO OBTAIN MARRIAGE LICENSE. The county judge, before a marriage license is issued, shall require each applicant therefor to file in his office upon blanks to be provided by the county for that purpose, an affidavit of at least one duly licensed physician other than the person seeking the license, showing that the contracting parties are not feeble minded, imbeciles, epileptics, insane persons, common drunkards, or persons afflicted with pulmonary tuberculosis in its advanced stages, provided, that in addition, the affidavit as to the male contracting party shall show that such male is not afflicted with any contagious venereal disease. * * * "

(Compiled Laws North Dakota 1913.)

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The Right to Marry



URING the Revolutionary War a young Jerseyman of good family, whom we shall call Martin Kallikak (not his real name, but near enough to it for our purposes), joined one of the regiments recruited in New Jersey for the defense of the colonies. While his regiment was being trained to fight, Martin met a feeble-minded girl at one of the taverns frequented by the soldiers and by her became the father of a feeble-minded child. At the close of the war he returned to his home and in due course of time married a girl of good family. Among the children, grandchildren and the later descendants of this marriage are numbered successful physicians, lawyers, educators, merchants and land owners, in short, men and women prominent in every phase of social life; of the four hundred and ninety-six direct descendants of Martin Kallikak's legitimate children, none are known to be mentally deficient. But what is the story of the illegitimate child?

The feeble-minded illegitimate son, named by his mother Martin Kallikak, jr., but known locally as "Old Horror," married a normal woman. They had ten children of whom two died in infancy; of the eight who survived, three were mentally normal, the other five were feeble-minded, two of the latter being sexually immoral and one epileptic as well. The oldest son, Millard, who was feeble-minded, married a feeble-minded woman, Althea Haight. All but one of their fifteen children who survived infancy were known to be feeble-minded. Millard's oldest son, Justin, who was feeble-minded, alcoholic and sexually immoral, married Eunice Barrah, a normal woman of a feeble-minded family, and all but one of the five children who lived past infancy were feeble-minded. Their first daughter, Martha, a feeble-minded sexually immoral woman was the mother of a feeble-minded child Deborah, who was admitted to the Vineland Training School. The study of her family history revealed the story just told and, incidentally, revealed that, among the four

hundred and eighty direct descendants of Martin Kallikak's illegitimate feeble-minded son, one hundred and forty-three were known to be feeble-minded while only forty-six were found normal.

This tragic story is true, the result of thorough and painstaking research carried on by the staff of the Department of Research of the Vineland Training School. Similar investigations have been made in several families in New England, New York and the Middle West, and from all the studies the same obvious conclusion is reached; that the marriage of mentally deficient persons results in the propagation of additional defectives who must always be a drain on the resources of society. Even before these investigations revealed the danger to society of the marriage of the feeble-minded, it was common knowledge that traits and physical characteristics were inherited. We hear frequently, "He inherits his mother's good looks and his father's temper."

Just as the color of the eyes and hair, body development, and certain traits are handed down from generation to generation, so is mentality. But to understand the inheritance of mentality, we must remember that mentally normal persons may possess either a hereditary mental taint or the freedom from this taint, and that while this taint may not appear in the individual it is transmitted to his children. If two mentally normal persons without this hereditary taint of mental deficiency marry, all of their children probably will be normal, or if two persons of unsound mind marry, their children as certainly will be feeble-minded. Of the fifteen children of Millard Kallikak and Althea Haight (both mentally deficient) all were feeble-minded but one.

But what happens when a normal person marries one of unsound mind? If the normal person has no hereditary taint, none of the children may appear feeble-minded, but all will carry the taint to their posterity. If a normal person is tainted and marries a feeble-minded person, half the children will probably be feeble-minded and all will carry the taint. On the other hand, if the normal person with the hereditary taint marries a normal person without the taint, we expect no feeble-minded children to be born, and further, that the taint will tend to disappear from among the offspring. This point is illustrated in the case of Martin Kallikak, Sr., who, since he was the father of a feeble-minded son, probably inherited a mental taint, but among the children from

his marriage with a normal girl no mental defectives appeared, nor did they appear in later generations.

It is known from experience that it is possible for a normal person without taint and married to a feeble-minded person to beget normal children. But the State cannot afford to allow such persons to marry because it cannot know who of the apparently normal is tainted and who is without taint—and how many of us can be sure that we do not carry this taint from some past unknown ancestor. Therefore the State assumes that all of us are potentially tainted, and that, should we marry a feeble-minded person, we should not only add to the number of those mentally defective persons who are either wards of the State or a menace to society. This leads naturally to the question of the reason for the State's interest in the marriage of its citizens.

At the present time the State spends one-fourth of all its resources on its correctional, training or treatment institutions for the mentally deficient and the criminals—who are largely feeble-minded—but the State, in spending this vast sum cannot care even for all the cases which, unless they are protected in an institution are a menace to society. Those feeble-minded persons who cannot care for themselves and who cannot be trained to do so, and those who cannot be trusted to protect themselves or not to injure others, must be restrained if society is not to suffer. Today the State is faced with the problem of raising a large sum of money for additional institutions to care for these custodial cases, but even when the State is equipped with these additional facilities it can care only for those feeble-minded who must be prevented from mingling with society. It can never hope to care for the harmless high-grade, feeble-minded person who can eke out some sort of a living, either with or without charity.

We must always have these harmless creatures with us and they may exist outside of institutions without definite detriment to the State if they are not allowed to marry. We cannot allow them to marry because we know that a feeble-minded person, who may be harmless and able to care for himself, may beget children who may not be so fortunate and who will become only additional burdens to the State.

Another addition to the group is the epileptic, for it has been proven beyond a reasonable doubt that epilepsy is transmitted in the same way as is mental deficiency. Not only do we exclude the feeble-minded and the epileptic because

their conditions can be transmitted, but we exclude also those who have become insane even though the rules concerning the hereditary transmission of insanity are well defined only in the case of certain types, for in the other types of insanity brought to light by over-indulgences, nervous strain, shock, injury or disease we know that a hereditary condition exists which might not have been evident without the exciting cause.

The resources of the State are depleted by the institutional care of mental defectives caused, not only by inherited feeble-mindedness, but also by a certain infectious disease which is particularly liable to injure the brain and nerves. Many of the inmates of the State hospitals for the insane are there because of this disease and, unless this disease is checked, the burden of the care of these patients must become an ever increasing drain on the State funds. Most of those cases of general paralysis of the insane, called paresis; most of those cases of that grotesque affliction, locomotor ataxia, now in our institutions are caused by this disease — syphilis. Not only does syphilis affect the brain but it attacks many of the organs of the body and to syphilis must be accredited a proportion of other fatal conditions such as certain organic brain, heart and kidney diseases. We know that the disease is wide-spread but until more accurate statistics have been accumulated we can only estimate its seriousness; in general it may be said that it is equal to tuberculosis in its sickness and death rates.

But the particular reason why syphilis must be considered by the State, in its limitation of the right to marry, is that it is hereditary. This statement is not scientifically accurate but for our purposes it is practically true and, what is more to the point, it is the only disease of any consequence which commonly is transmitted from parent to child before birth. At one time it was supposed that many diseases, such as tuberculosis and cancer, were inherited by children from their parents but, today, we know that such diseases are not; syphilis stands alone in this respect and, therefore, it receives special consideration from the State. Syphilis may be transmitted at the time of conception when either of the parents is infected with the disease, or it may be transmitted to the child during the pregnancy when the mother is diseased. Fortunately syphilitic offspring usually do not live; it has been observed that the first pregnancies of syphilitics generally result in miscarriages and still-births; that later

pregnancies commonly result in the birth of mentally and physically deficient children who seldom live past infancy; but that still later children may be born with less serious manifestations of infection while still others may be free from any sign of disease. Studies of the families of syphilitics have led physicians to believe that even when the active infection is not transmitted directly to the children, the syphilitic taint is liable to be transmitted because the disease in the parents affects the prenatal growth of the child with resultant nervous disorders such as idiocy, imbecility and epilepsy.

Syphilis is a communicable disease transmitted through contact with infective discharges of a person during certain stages of the disease. Of course, the great majority of syphilitic infections are acquired originally through sexual intercourse with diseased prostitutes—this term includes both men and women who are sexually immoral. Syphilis is transmitted almost surely when a person marries while in a communicable stage of the disease. It is transmitted occasionally through the secretions of the mouth by kissing or the use of common drinking cups, and when hereditary syphilis occurs, the unborn babe is infected by either of the parents who are diseased. The disease is caused by a cork-screw-shaped animal organism which is deposited upon the surface of the body by contact with infective material. The organisms usually enter the body, multiply and create a sore, called a chancre, which appears about three weeks after the time of exposure. From this sore serum may be squeezed containing the organism causing the disease, and a microscopic examination of the serum gives us the first means of determining the presence of syphilis. After the sore has been present for at least three weeks some change not well understood takes place in the blood, which may be detected by a complicated test called the Wassermann reaction.

The appearance of the highly infectious chancre is followed in about six weeks by the appearance of a generalized rash or eruption which denotes the beginning of the secondary stage. In this stage, which may last a year or more, painless white mucous patches may appear in the throat and mouth from which the organisms are released to infect the saliva. Persons in this condition are probably the greatest source of non-sexual infections. At the conclusion of the secondary stage a period of latency commonly occurs in which no distinctive signs or symptoms can be found except by a blood

test. The final stage may occur at any time, either immediately after the secondary stage or ten, twenty, thirty or more years later. In this stage the organisms attack various parts of the body causing the decay of the flesh, bones or vital organs. The disease may attack not only the surface of the body, but instead the heart, the liver, the kidney, or the brain.

Syphilis can be cured but the cure depends upon medical treatment conducted over a period of years. The cure by a combined treatment of a form of arsenic (called arsphenamine) and mercury is one of the greatest achievements of medical science. Since the disease can be cured — at public expense if necessary — and since the marriage of a person not properly treated must surely result in the suffering of innocent persons and the burden of defective children, the State prohibits the issuance of a marriage license to a person infected with the disease in the communicable stage.

What is true of syphilis is also true of another disease, gonorrhoea, except that it is not transmitted before birth of the offspring. While syphilis is one of the greatest killing diseases, gonorrhoea presents a more depressing picture. Sir William Osler said:

“From the standpoint of race conservation gonorrhoea is a disease of the very first rank. It costs the country, annually, thousands of lives. With 30 or 40 per cent of all congenital blindness, with chronic pelvic mischief in women and with the unhappiness of sterile marriages — with these and many other minor ailments scored up against them, we may say that while not a killer, as a misery producer Neisser’s coccus is king among germs.”

Like syphilis, gonorrhoea is acquired most frequently by sexual intercourse with prostitutes; like syphilis it almost surely will be transmitted when a person marries when in an infectious stage; and while it does not directly infect the unborn child as does syphilis; if the child is born of a mother infected with the disease, unless great precautions are taken, the infection may enter the child’s eyes and cause blindness. A large proportion of the blindness in the State and charitable institutions for the blind is caused by gonorrhoea.

The disease is caused by a coffee bean-shaped germ found in the infected discharges of a diseased person. Soon after

the infection occurs a discharge of pus is produced, which is accompanied by severe pain in the man but little or no pain as a rule in the woman for the first few weeks. It is possible, when the treatment is begun early to limit the spread of gonorrhoea by proper hygiene, diet and the local application of certain germicides. If the disease is not treated properly it passes into the chronic stage which in a man may last for a period of years, and in a woman until the change of life is reached. Gonorrhoea frequently is responsible for sterility in both sexes, and gynecologists assert that sixty-five per cent of the major operations on the female genitals are made necessary by gonorrhoeal infection. We have a term "one child sterility" which means that, before the delivery of the first child, the tubes which carry the ova become infected, are closed after the inflammation subsides, and prevent subsequent conception. Since gonorrhoea causes blindness so frequently and thereby adds to the burden of the State in the care of the blind, and since so frequently it causes sterility thereby preventing the bearing of children, the State must also prohibit the marriage of persons infected with this disease in a communicable stage.

Chancroid, the venereal disease third in importance, is a disease of the filthy. It does only local damage, does not affect the offspring and need not be discussed here.

The State of North Dakota prohibits the issuance of a marriage license to persons of unsound mind, epileptics and those who are infected with these venereal diseases in a communicable stage. That this law may be enforced the State requires all applicants for a marriage license must be examined by a qualified physician who must certify under oath that they are not mentally defective or epileptic, and that, if males, they are not infected with venereal disease in a communicable form.

This is as far as it is practicable for the State of North Dakota to go at the present time.

The State is benefited by these means but in the opinion of many qualified physicians this law is not a sufficient protection for the individual. If the prospective bride or groom is sufficiently interested in his or her own health and in the qualities which will be transmitted to his or her children, more evidence will be required. Persons about to enter marriage should be anxious to present a clean bill of health. Mental deficiency and the presence of venereal dis-

eases can be discovered with a reasonable degree of certainty by an examination conducted by a qualified physician, but for the latter it is usually necessary to have laboratory examinations and this requires considerable time. Both parties to the proposed marriage should be required to furnish evidence as to freedom from any taint of syphilitic infection.

Uniform marriage laws are also desirable in all the states. At present many applicants who could not obtain marriage licenses in their own state go to other states, where medical certificates are not required, for the ceremony.



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