1957

A study of laws and other factors in five New England states pertaining to commitment of employees and pensioners with mental illness and the effect of these factors on the policy of a large industrial company

BOSTON UNIVERSITY

SCHOOL OF EDUCATION

Thesis

A STUDY OF LAWS AND OTHER FACTORS IN FIVE NEW ENGLAND STATES PERTAINING TO COMMITMENT OF EMPLOYEES AND PENSIONERS WITH MENTAL ILLNESS AND THE EFFECT OF THESE FACTORS ON THE POLICY OF A LARGE INDUSTRIAL COMPANY

Submitted by

Katherine C. Hannigan

(B.S., Boston University, 1955)

In Partial Fulfillment of Requirements for

the Degree of Master of Education

1957

First Reader: _____

Dugald Arbuckle
Professor of Education

Second Reader: _____

Leslie Irwin
Professor of Education

ACKNOWLEDGEMENT

The writer wishes to express her thanks to the many people without whose help this thesis would not have been possible.

TABLE OF CONTENTS

CHAPTER I

STATEMENT OF THE PROBLEM AND DEFINITIONS OF TERMS

The problem of this thesis is to study for investigation purposes and analysis, the data obtained to aid in the determination by which employees who are mentally ill are considered competent or incompetent to handle their financial affairs. This relates to the Company Sickness Benefit Plan and to the payment and endorsement of sickness benefit checks which the employees are entitled to under the Company Benefit Plan. Individuals who are receiving pension payments from the Company are also included should this particular problem, or illness, arise with one who is pensioned. The problem is of concern to a Company with over 40,000 active employees plus 3,800 pensioners.

More precisely the question asked is: - "Is John Doe considered competent to handle his financial affairs?" and this question requires either a "Yes" or "No" answer.

This study is deemed necessary in order to provide some understanding of the basis of the problem and to focus the need of research pertaining to it. The data is considered necessary as one should be sufficiently oriented in order to assist in constructing a practical and working policy so the question stated above can be determined and answered.

As this study concerns five states adequate knowledge of

the various state laws is required to base judgment and policy. This is considered as important in order to provide a systematic exploration of known facts, and the concept of them to aid in establishing some consistency of decision for over-all planning and handling.

This knowledge is essential as well as the need of effective interpretation in order to establish a reasonable and fair method handling these cases. It is necessary to obtain substantiating facts of an evaluative nature to determine procedures that can be, and will be, applicable to the problem and aid in giving either a "Yes" or "No" answer to the specific question previously stated.

It is the wish too, in determining this policy, as well as any policy, to safeguard the person (employee) as well as the company. It may be necessary to recommend that a guardian be appointed in cases considered to be incompetent. Therefore, one should be acquainted with the problem and the facts for more ease and efficiency in handling of cases of this sort, as well as for carrying out the policy of the company.

It is essential to realize that the prime concern of the law is in the community.

> The rights of an individual include all the constitutional rights as to life, liberty, and property of which he cannot be deprived without due process of law. "When a point at issue is commitment to a hospital, the decision rests, not on the presence or absence of a particular disease but on the question of the man's ability to live in accordance with social conventions and regulations. Laws relating to insanity have been framed for the dual purpose of protecting society and of safeguarding the rights of the afflicted individual."

> All medicolegal problems are essentially social, and extend beyond the immediate consideration of the patient to that of the community in which he lives.
>
> Medically, we are well aware that it is impossible to draw a hard and sharp line between sanity and insanity. No entirely satisfactory definition has yet been achieved. Consequently, we are compelled to consider every case strictly on its own merits, a method of procedure that corresponds exactly with legal practice. Constitutionally, every man is sane until proved insane, though legally, it is occasionally true that, given a reasonable doubt, the burden of proof rests with the proponents of sanity.1/

In hospitalizing the mentally ill, it seems that lawyers and doctors find it difficult to see eye to eye on the fundamental problem of how to eliminate needless legalistic formality as to procedures; and, at the same time maintain adequate safeguards. Medical men, as a rule, are impatient with unduly formalized commitment procedures and this seems understandable. Procedures, however, are necessary as they represent the application of principles of fairness and justice in dealing with human beings and human things. The court has the authority to protect the estates of persons, who, by reason of mental illness or infirmities are unable to do so by themselves; and, in doing so, must consider the well-being of the person. It is known too, that with some mental illnesses there may be recurrences, and in such instances it is necessary to be doubly careful to guard the person's rights and estate.

A commitment to a mental (insane) institution deprives a

1/H. Douglas Singer, M.D., and Wm. A. Krohn, M.D., PhD., Insanity and Law, P. Blakiston's Son & Co., Philadelphia, 1924. p. 1-2, 4.

person of his liberty and in some states his rights, and it is a court procedure. Under the Federal Constitution the commitment of mental patients to institutions is left to the individual states. Therefore there is lack of uniformity. Whether or not the signature of the person committed is considered to be legally acceptable must then be determined. If the person is deprived of his liberty and rights any and all contracts made by him are considered void. Whether or not a person's driving license is also revoked during his period of commitment must be determined. This is particularly important when the person's employment necessitates the operating of a motor vehicle. It would appear obvious, therefore, that research in this area is demanded for proper handling in each case. It would appear that payment checks in some cases, if issued and indorsed by a person who is legally committed as insane, could well be demanded for repayment when the said person is later declared well and legally sane and the commitment has terminated.

This subject of the proper handling of checks payable to individuals with mental disorders is of concern to all companies and agencies, government and otherwise. Factual data in this area is therefore considered as necessary to determine safe, practical, and proper procedures.

Definition of Terms Used

It should be well to define the terms used in this study. These definitions will hold throughout the content of this

thesis.

Mental Illness or Disorder: Pertaining to the mind.

Sane: Mentally sound.

Insane: Not sane; unsoundness or disorder of the mind; utter folly or irrationality.

Competent, competence: Fit, able, capable; ability, efficient, qualified.

Incompetent, incompetency: A want of physical, mental or moral ability; a want of legal qualifications or fitness, as the incompetence of an idiot for intellectual efforts. Unfit, inadequate.

Statute: Something declared as fixed or established; hence, a law enacted by the legislative branch of a government. An act of a corporation or of its founder intended as a permanent rule; as, the statutes of a university.

Jurisprudence: The science of law. Law, or a system of laws: a department of law.

Jurisdiction: The legal power, right, or authority to hear and determine a cause or causes. Authority, of a sovereign power to govern or legislate control. Sphere of authority.

Feebleminded: Weak in will or understanding. Abnormally lacking in intelligence.

Mental Deficiency: Lack of intelligence such as to disqualify an individual from parity with his fellows in school

or in later life, feeblemindedness.

Commitment: The act of being committed: to put into charge or keeping. The legal consignment or delivery, of a mental patient to an institution for treatment.

CHAPTER II

RELATED RESEARCH

Research in the field of Mental Disorder or Disease has its beginning in the problems of individual human behavior and attitude which is integrated into the more complex term of personality. The behavior and emotional life of individuals has many facets for research. We might, therefore, consider that generally in this field, we are concerned with the disturbances of the adaptation of the individual to the environment of which disorders of the personality present themselves.

In distinguishing from human diseases, disabilities, and behavior, which primarily afflict the bodily members and functions, it has been common for a long time to speak of a class of "mental" disorders. This distinction rests partly on a fixed tradition that what cannot be conveniently brought under the category of body and matter must be treated under the category of spirit and mind. The actual history of mental or psychological medicine has been reluctant to admit to a class of "functional" disorders when no pathological lesion could be revealed. The practical outcome of this more or less confused state, with confused concepts, has resulted in research by outside influences and an increasing prestige of biochemistry, endocriminology, and the like; as well as inroads from sociology, anthropology, psychology, and psychoanalytical theory and

practice. These latter influences could be considered as disturbing in that they tend to challenge the term "disease" as the fundamental concept underlying the disorders alienating them from a medical classification. To be socially maladjusted or out of touch with one's particular culture, or suffering from a mother or father fixation, may not at all signify "disease"; but could well be something to be better understood and treated in an entirely different context. We now find, and see introduced into the field of mental medicine, many other concepts, many new interests and several non medical methods. It seems reasonable to assume that most persons who are actively and responsibly concerned with the disorders and the disordered, would agree that the new knowledge and the new instruments of research brought together from the wide field of the sciences are urgently needed and most valuable. When men are convinced they have discovered the causes of mental derangement, whether through the principles of organic pathology or by entrance into the hidden depths of human nature, they strive to prevent and relieve many of the grave ills of the body and mind, and can successfully cope with the mentally disordered in public or private institutions as well as in the open life of the community.1/

In turning from the professional considerations to the

1/Manfred S. Guttmacher, and Henry Weihafen, Psychiatry and The Law, W. W. Norton and Co., Inc., New York, 1952.

disorders themselves, we find a problem of great difficulty. A vast number of the restrained psychotic and the unrestrained neurotic afflict themselves, cause anxiety to their families, trouble their communities, disturb business, and create an enormous economic loss. It is reported that one single type of disorder costs the country over a million dollars a day. It is the high incidence of these disordered individuals that are of more concern than the financial cost of maintaining institutions and the like, for the care of them. It is obvious to all of us that the committing of a member of a family to a hospital for the insane more seriously disturbs the family and the community than it does the person committed. The number of disturbed and ungoverned individuals outside the institutions is unknown, but is considered to exceed the number that are hospitalized. In addition to the disturbed individuals abroad in society working mischief in the family and neighborhood, are the neurotic and psychoneurotic who are under competent care, and others who are not. These last seek the advice of healers, cult leaders, quacks, and the like. Included here too, are the vagrant, the queer, the incorrigible, the suspicious, as all are social hazards. All are individuals who for various causes show defective self-direction, unbalanced or unstable performance, and are more or less incapacitated for effective living. From this group come many of the more serious and permanent outcasts who make up the dangerous classes of society. The gravity of the problem of human disorder and maladjustment can

be realized then as being inherent in its personal, social, and economic issues. The problem, it seems, resolves into a series of part-problems and it appears only reasonable then that these part-problems be set in array to deliberate and determine means to prophylaxis. Any consideration to undertake to alleviate this problem, or a part-problem, would call for a thorough inquiry on the part of all the sciences previously mentioned.

Dr. C. Campbell, formerly at the Boston Psychopathic Hospital, in a study of The Committee on Psychiatric Investigations by the National Research Council tells us:

> The fundamental problem of the psychiatrist, is the disturbance of the adaptation of the personality to the total situation; the functions by means of which man adapts himself to his environment, the special derangements of these functions, and the special stresses and strains which the environment lays upon the person are the material with which the psychiatrist works. The personality means the individual in action, with his behavior and his beliefs. It includes all the partial functions which may be studied in other disciplines; it includes all the chemical changes; it includes all the physiological activities as well as all the overt reactions, all the thoughts and emotions and strivings of the individual.1/

The psychiatrist too, deals directly with the overt mental disorders where the advice of the physician may, if necessary, be supplemented by the authority of the court in a legal commitment. This group includes persons commonly referred to as insane; and their disorders referred to as psychoses of various

1/The Problem of Mental Disorder. A study undertaken by The Committee on Psychiatric Investigations - National Research Council, Madison Bently, PhD, (chairman), E. V. Cowdrey, PhD. McGraw-Hill Book Co., Inc., New York & London, 1934. p. 116.

denominations. In some personality disorders dealt with by the psychiatrist, the primary disturbance may lie at structural alterations, such as a tumor; or of infective processes, such as encephalitis or focal infections; or of metabolic or nutritional anomalies, such as pallagra, pernicious anemia, alcoholism. In other disorders the main trouble may be in the nature of the constitutional endowment, the molding influences of experiences, and the actual life situation with its specific values for the individual person. In all cases both aspects of the situation have to be considered.

As to the interrelations of psychology and psychiatry, to psychiatry, psychology owes the term "clinical" which is in frequent use today. An important principle of clinical psychology is that the abnormal is the exaggeration. It may also be the deficiency, and characteristically, the distortion of the normal. Mental disorder and mental order are of the same origin as they arise from the assets and liabilities of the same constitution. The clinical psychologist seeks to analyze the neurotic personality, and this contribution forms a basic psychiatric resource, the common meeting ground being the study of personality.

Due to the large number of individuals with mental disorders, and another large group in seemingly constant conflict, one is compelled to ask what causes all this? Where does it start? What is this ingredient called personality? What is personality, and/or the theory of personality? Cicero tells

us that only the rudiments of "that which is highest and most excellent in man" are given us at birth. The fully fashioned and developed adult personality awaits the process of growth. This nature of growth, we are told, is the critical problem of the psychology of personality. Human beings, as with all living creatures, are subject to the laws of heredity. Many studies have been done in these two areas; heredity versus environment, and it appears from most findings that one concludes that they are both equally important. The individual physique, temperament, abilities, and talents which become manifest with the growth do have a complex part to play in a person's total personality.1/

As we know, the word personality derives from the word Persona, from Greek drama, denoting the theatrical mask used by Roman players, a hundred years before Christ. Although there were numerous extensions, interpretations, and transformations of the word Persona, the term personality, from Persona, still holds and continues to be abstract and multiple in meaning. "Personality", it seems, is one of the most abstract words in our language and therefore suffers from excessive and improper use along with varied and broad connotations. In classical times the word Persona had the meaning of "an assemblage of personal qualities", and this meaning became firmly established in the seventeenth century.

1/G. W. Allport, Personality: A Psychological Interpretation, Henry Holt & Co., New York, 1937.

As it is more or less agreed upon that the word personality means a varied selection of personal qualities, how then can it best be defined? Prince, in his book "The Unconscious" says: "Personality is the sum-total of all the biological innate dispositions, impulses, tendencies, appetites, and instincts of the individual, and the acquired dispositions and tendencies acquired by experience."1/

Warren and Carmichael in their "Elements of Human Psychology" write: "Personality is the integration of patterns (interests) which gives a peculiar individual trend to the behavior of the organism."2/

Gordon Allport in "Personality, A Psychological Interpretation" says: "Personality is what a man really is."3/

Mr. Allport realizes that this definition is terse; however, he feels it is acceptable in principle. Realizing too that the definition is brief and vague he amplifies it by adding: "Personality is the dynamic organization within the individual of those psychophysical systems that determine his unique adjustments to his environment."4/

For purposes of provoking thought and study Raymond B.

1/Morton Prince, The Unconscious, Longmans, Green & Co., New York, London, and Bombay, 1924. p. 532.

2/Warren and Carmichael, Elements of Human Psychology, Houghton, Mifflin & Co., New York, 1930. p. 333.

3/Gordon Allport, op. cit., p. 13.

4/Ibid., p. 44.

Cattell in "Personality" prefers to start with this definition: "Personality is that which permits the prediction of what a person will do in a given situation."1/

Karl Menninger felt some of the definitions on personality only caused confusion of the subject and in his book "The Human Mind" wrote:

> Of course personality is used to describe almost anything from the attributes of the soul to those of a new talcum powder. As we shall use it, it means the individual as a whole, his height and weight and loves and hates and blood pressure and reflexes; his smiles and hopes and bowed legs and enlarged tonsils. It means all that anyone is and all that he is trying to become.2/

We have then, these definitions of what leaders in the field term as personality. It is possible too, that we all have our own definition or connotation of the word. It would seem that any attempt to bring a more precise explanation or discussion of personality to these few pages would be most difficult. The chief purpose here is to emphasize, to some degree, what constitutes personality in order that one may realize the vast area in which difficulties pertaining to the psychophysical system may occur in an individual thereby causing mental disturbance.

Mental Health and Mental Hygiene

Mental health is dependent largely upon good emotional

1/Raymond B. Cattell, Personality, McGraw-Hill Book Co., New York, London, and Toronto, Canada, 1950. p. 2.

2/Karl Menninger, The Human Mind, A. A. Knopf, New York, 1945. p. 21.

habits. The various forms of mental disorders or ill health are characterized largely by faulty emotional reactions. Sappenfield tells us that "applied psychology" of adjustment traditionally has been termed "mental hygiene". The implications, however, of such interchanging of these terms seems incorrect in some respects. The terms "health" and "hygiene" had their origin in medicine and do carry implications that do not really apply to adjustive behavior. Also, the term "mental" implies a dichotomy between "mental" and "physical" when in reality there is no such dichotomy. It appears arbitrary then, to make the distinction that certain processes of the organism are "physical" and other processes are "mental". The assumption that mental processes occur that are distinctly separated from physical processes leads to much discussion and unanswerable questions. The problem of how headaches, stomach-ulcers, diarrhea, and other such disorders, can be based on mental processes becomes difficult for those who believe that mental and physical processes are fundamentally different. Such a problem does not arise when it is accepted that behavior involves psychosomatic interrelations. An emotional process, then, is neither physical nor mental and cannot be described in either mental or physiological terms. All human behavior is motivated, and what the individual does at any given moment is a function of his motivational pattern. Emotional processes are considered as intimately related to the gratification of motives. Motivation can be termed as a central concept in the

psychology of adjustment.[1/]

It is in this area of the psychology of adjustment that we are concerned in regard to mental health. In the interest of mental health Man (a child) must learn to face reality and make the best possible adjustment to it. Emotional activities and/or conflicts are complex psychological functions, the study of which presents many facets. An individual's personality consists in a large measure on his emotional predispositions which he manifests when he encounters frustration, insecurity, and emergency situations. The point of interest seems to be that disordered behavior or emotional conflict stems from the same common origin as ordered behavior, originating in experience or habit. What a given set of genes shall produce is greatly influenced by the conditions to which the developing individual is subjected. Modified or defective genes that under certain conditions produce an individual that is defective, may under other conditions produce an individual that is normal. The results are then dependent upon both the nature of the individual's genes and the nature of the environment under which he develops, as both must be considered.

Research in the natural sciences usually implies experimentation, and this is as significant in psychology as it is in physics, chemistry, and physiology. In these applied fields, as well as in psychology and psychiatry, tests, scales, ques-

1/Bert R. Sappenfield, Personality Dynamics, Alfred A. Knopf, 1954, and Anne Anastasi, Differential Psychology, MacMillan Co., New York, 1937.

tionnaires, and the like, have been developed as research tools to aid in diagnosing mental disorders. Emil Kraeplin (1856-1926) is widely recognized as the person chiefly responsible for system and scientific order in this area, as well as for acquiring a great deal of sound material on individual differences in health and mental disorder studies. The tests, or "tools", used to-day can be attributed to the time and effort given them by psychologists in order to advance our knowledge on mental disorders. These "tools" used to aid in diagnosing mental and anxiety disturbances can be judged the same as the "tools" used in medicine such as the sphygnograph, electrocardiograph, and the like. There is scarcely a disorder, great or small, that does not suggest a possible involvement falling into one of these categories for study today.1/

Personality and Psychological Testing

It seems proper to mention that although personality has been variously defined, and its nature and origin variously explained, some attempt has been made to gain some measurement of it, and of allied disturbances. Although this phase of testing is considered still in its infancy some progress has been made in measuring characteristics considered to be a part of personality. These tests are in the field of interests,

---

1/Madison Bentley, PhD., in paper for National Research Council Psychiatric Investigations, 1934. "General and Experimental Psychology", in The Problem of Mental Disorder, p. 275-313.

attitudes, temperament, emotional maturity and adjustment, social relations, and the like.[1/]

The first of this type of testing was with the abnormal and feeble minded individuals in the late eighteen hundreds. Kraeplin was the first to attempt this and used the free association test. The answers to these tests were to determine not only what words were known, but to bring out the mood and emotional reactions to situations represented by the words. (The Rorschach test developed in 1921 was of this sort, and is currently used rather extensively with mental and personality disorders.) In 1882 Galton followed with similar testing as did Pearson and Cattell. In 1890 Sommer, too, recommended the free association tests in mental disorders and feeblemindedness. The outcome of this work was the development of standardized questionnaires and rating scale procedures that are being used to some extent today. Woodworth, during the first World War, developed a self-report inventory used as a screening device for neurotic men. This became a sort of model for numerous and subsequent inventories for use in the area of emotional adjustment. Performance, situational, and projective type tests followed of which the Rorschach Inkblot Test is perhaps the best known. Anastasi tells us that although there have been advances made in measurement of personality there is still much to be done. The tests in this area are chiefly measurements of personality characteristics concerned with the emotional,

1/Anne Anastasi, Psychological Testing, MacMillan Co., 1954.

social, and motivational aspects of behavior. The interest in tests during the early period was the outgrowth of the work of the psychologist and in the psychological laboratory.[1/]

The scientific study and measurement of personality and its "traits" is exceedingly difficult for many reasons. Personality is mostly vague and ambiguous in meaning, and different people often include different aspects of behavior, temperament, emotional adjustment, and the like within it. Behavior too, which one person interprets as aggressive, might be called adventurous by another. One of the problems in this area is in devising a test that is reliable and valid. The problem of reliability and validity is different with personality tests than with the measurement of an external criterion. The validity of any instrument depends on the manner in which it is to be used and this is particularly important in the validity of personality tests. Attempts at measuring personality are much different from the measuring of more concrete items. Another difficulty is that these tests involve subjective interpretation. They are partly dependent on the testee, and his own point of view and personality may both influence the results. Few personality tests today have reached a stage where the application and scoring are as standardized as in testing intelligence, and few have trustworthy norms.[2/]

1/John Gordon Dailey, Testing and Counseling in the High School Guidance Program, Science Research Assoc., Chicago, Atlanta, 1943, and Herbert Sorenson, Psychology in Education, McGraw-Hill Book Co., New York, 1948.

2/Lewis M. Terman, Intelligence of School Children, Houghton, Mifflin Co., Boston, New York, 1919.

Mental Deficiency and/or Retardation

It would seem proper to mention Mental Deficiency, Feeblemindedness, and Retardation.

> Mental deficiency refers to defective intellect or the lack of learning capacity. It generally implies an inherited defect, although injury to a normal brain may result in feeblemindedness. A feeble minded person lacks the intelligence or training required to take care of his own needs properly. Mental retardation is an arrested development of the mind because of neglect or of training or thinking. These conditions result in low mental efficiency.1/

Diversities in mentality and behavior may be due either to differences in the genes borne by the individuals, or to differences in the conditions under which the individuals develop and live. Students in this area are therefore concerned with psychology, psychiatry, and genetics.

For understanding the relation of mental disorders to genes, certain facts, at times misunderstood, must be held in view; facts regarding the nature of genes, their method of action, and the way in which genes are distributed to the offspring at reproduction. By modification or imperfection of any one or more of the many genes that co-operate to produce a part or function, that part or function may be greatly modified or rendered defective. Imperfection of even a single gene of the great number that are at work may change that part. Imperfection of a single gene in man may possibly result in feeblemindedness or in other serious defects. Thus defectiveness or

---

1/Martin H. Neumeyer, Juvenile Delinquency in Modern Society, D. Van Nostrand Co., Inc., Toronto, New York, London, 1955. p. 101.

weakness of any part or function, as in the brain or other part of the nervous system, may result from the imperfection of any one or more of many different genes carried by the individual.

The nature of the individual produced by a given set of genes also depends in a large measure on the conditions to which the genes are subjected. Diversity of environment may make all the difference between a normal or abnormal individual. It should be stressed that both the nature of the individual's genes and the nature of the environment under which he develops must be considered. Altering either one may alter the type of individual produced, particularly in connection with physiological and mental disorders.1/

Modern psychology and psychiatry have adopted certain standards of measurement for designating the degree of mental deficiency, the significance of which must be clearly grasped if serious misunderstandings are to be avoided. When arrest of development occurs at a certain age, it might be expected that the mentality of the person would more or less correspond with that of an immature person of the age at which the arrest occurred. This however, is not considered as correct for many reasons.

> The conditions that cause the arrest in development of the brain are not operative in a uniform manner; they involve some parts of the brain to a greater degree than others. What actually happens, therefore, is an irregular

1/H. S. Jennings, in a study by The National Research Council for Psychiatric Investigations, 1934. "Genetics and Disorder," in The Problem of Mental Disorders, p. 216-227. This study was supported by a grant from the Carnegie Corporation.

> development which cannot correspond with any normal stage in evolution. Instincts and desires, such as those of sex, that do not depend, except for their control, on the functioning of the brain, appear with maturity of the body even in feebleminded persons. These introduce motives and tendencies to action that belong to the adult and not to the child. It is, therefore, entirely improper to compare the defective mind of an adult whose body has developed to more or less maturity with that of a normal child who as yet lacks these incentives to action.[1]

The same standard tests of intelligence for normal school children have been applied to the measurement of intelligence in defective children and adults. It should be understood, however, that such tests measure only certain particular features and are not in any sense a measure of the capacity of the individual to adjust himself to conditions of life. Intelligence, often assumed to be the chief feature measured by tests, is highly important for successful adaptation to the conditions of life; but the kind of use that is made of the intelligence is of at least equal importance, and this depends on such factors as genes, instincts, training, interest, and energy. The summary of one study in this area revealed:

> Children reported as retarded by responsible agencies occur in markedly varying frequencies in different age, sex, color, and neighborhood populations. These facts indicate that "mental retardation" is not a fixed characteristic of individual children, but a complex set of manifestations of some children's relationship with their immediate environment. The data of this survey indicates that this relationship ceases to exist spontaneously in many children after the age of 14.

1/Singer & Krohn, op. cit., p. 169.

> Intelligence quotient scores are unevenly distributed among children reported as retarded, many reported children having recorded quotients over 75 and some over 90.[1]

We must be cognizant that mental deficiency and retardation, or the failure in developing of mental capacity, may come about from damage which the individual has received during his process of growth and development. Medically, these factors are of great importance for treatment and prevention. But, medicolegally, the kind of disease or defect is comparatively unimportant; the principle question is the degree of damage and the consequences that ensue as regards the behavior and responsibility of the person so affected.

It is customary to divide the degrees of mental deficiency or defect into four classes, which have become more precise since the adoption of intelligence tests as a means of definition. These classes are:

1. Idiots: with intelligence quotients between 0 and 25.
2. Imbeciles: with intelligence quotients between 25 and 50.
3. Morons: with intelligence quotients between 50 and 75.
4. Backward persons: with intelligence quotients between 75 and 90.

> The term feebleminded is generally used in this country to designate mental deficiency of the grades one to three inclusive. In England, and by some authors here, it is used more specifically to apply to the higher grades here designated as morons. In this country, therefore, feebleminded usually indicates mental deficiency of such degree as to render commitment to a special institution permissible.[2]

1/M. B. Goodman, M.D., et al., "A Prevalence Study of Mental Retardation in a Metropolitan Area." A paper presented before the Mental Health Group of the Am. Public Health Assoc., at the 83rd Annual Meeting in Kansas City, Mo., Nov. 17, 1955.

2/Singer and Krohn, op. cit., p. 173-174.

Mental Disorder in Relation to Crime

J. Edgar Hoover, Director of the Federal Bureau of Investigation says:

> Mental illness in conjunction with crime is becoming a serious problem in America. In instance after instance, plain warnings of serious emotional disturbances precede violence. Law enforcement officers are finding that in numerous cases the offender has an extensive history of law violation and mental illness.1/

The National Mental Hygiene Act of 1946 provided funds for financing research and training programs, and to assist states in establishing mental health services. Until that time (1946) it could be considered that the problem of mental health in America had been sadly neglected. However, that the problem of mental health and personality adjustment, or maladjustment, is increasingly being recognized is indicated by the growth of mental hygiene clinics, institutes, hospitals, and educational programs.

There is a long history regarding the handling of the mentally disordered in relation to crime. A custom established by Edward I, 1216-1272, was that an infant below seven years could not be held responsible for a felon. And, a child seven to fourteen years was generally incapable of felony; however, facts may be presented on this latter to show that at this age a child may know the distinction of right and wrong. Out of this came further study and discussion pertaining to adults who

---

1/J. Edgar Hoover, Dir. F.B.I., in "Needed: A Quarantine to Prevent Crime" in Magazine of the Boston Sunday Herald, March 10, 1957. p. 8-9.

were considered no more rational than children due to mental disorder or defect. Fortunately for the interests of humanity, Pinel (1791), became greatly interested in the handling of the "insane" versus crime; as did his scholar, Esquirol, who continued some of Pinel's work in this area.[1/] In their work, some attempt was made to distinguish the scope of reasoning and responsibility in cases of mental disorders, disturbances, and mental excitement. The term "mental disease" was found to be too vague a term to leave to the courts and the jury. It appeared a matter of common observation that the deliberateness of acts varies under different circumstances. Human beings may unintentionally break the law. They may be too young or too insane, or too excited to plan or intend anything; hence, the court must investigate human "intentions". By the end of the seventeenth century, evil intent was fully recognized as essential to a felonious act on the part of adults.

> Adults were then held responsible except when the act involved reasonable inadvertance, self defense, public necessity or insanity. Insanity was a defense at first only when present in a very severe form. The test of insanity in English courts was long the knowledge of right and wrong. As a result of the famous McNaghton case of 1843, two principles were established which became the basis for future decisions.
>
> 1. The accused, to "establish a defense on the ground of insanity", must be shown to be "labouring under such a defect of reason, from disease of the mind as not to know the nature and quality of the act he is doing, or if he did know it, that he did not know he was doing what was wrong."

1/Wharton & Stiller's, "Medical Jurisprudence", Mental Unsoundness, Vol. I, 5th Edition, The Lawyer's Cooperative Publishing Co., 1905.

2. If the accused "labours under partial delusions only and is not in other respects insane, - he must be considered in the situation as to responsibility as if the facts with respect to which the delusion exists were real."[1] Some lawyers now consider the principles of the McNaghton case antiquated.

Some theorists assert that all criminals are mentally disordered else they would not engage in dangerous, anti-social or abnormal behavior. (Perhaps a strong case along this thinking could be made out of this.) Many types of crime, especially petty crime, cannot be attributed to mental disorder. Instead, it appears it must be laid to defective training and bad environment. The social stratum of the offender may be a deciding consideration in how much criminal conduct he can indulge in with immunity.[2] In wrestling with the problem of "responsible behavior" versus "irresponsible behavior" we often see the lawyer perforce turned psychologist. From this it would seem that the lawyer, or courts, should logically be receptive to evidence of all sorts of influences which affect behavior, and not merely to the influence of mental disorder. However, it seems, in spite of the lawyer's training in logic, the courts have inconsistently sought for the "deranged" mind as a source of "irresponsible behavior", but neglected the "deranged" social situation which, to most of us, is a far more prevalent source of behavior patterns.

1/Donald R. Taft, Criminology, A Cultural Interpretation, The MacMillan Co., New York, 1950. p. 337-338.

2/George W. Jacoby, M.D., The Unsound Mind and the Law, Funk & Wagnalls Co., New York & London, 1918. pp. 56-63, 80-97.

Of all problems involved on the subject of mental disorder as a defense in crime, the greatest difference of opinion and most discussion has centered around the legal tests of insanity; i.e., the degree of mental disorder which must be shown to excuse a defendant from criminal responsibility. It appears obvious that not every form of mental disorder will render a person irresponsible. It is sometimes stated by courts and statutes that a person who is "insane" is not capable of committing a crime. To some, this would indicate the term "insane" to be used rather loosely, in that it does not mean that every person is held incapable to commit crime who is in any degree mentally ill or disordered. It is however, only those who are so disordered as to come within the "test of insanity" established by law, in each jurisdiction, that are excused from criminal responsibility on the ground of insanity. What this test for "responsibility" should be is the question upon which many authorities seem to differ.

The law in this country can be summarized as follows:

> A person is not criminally responsible for an offense if, at the time it is committed, he is so mentally ill or disordered as to lack
> 1. knowledge that the act is wrong. (So called "right and wrong test".)
> 2. will power enough to resist the impulse to commit it. (So called "irresistible impulse test.)[1]

We are aware that the "pro and con" of this law has been debated for years, and needless to say, will continue to be debated.

1/Henry Weihofar, Mental Disorder as a Criminal Defense, Dennis & Co., Inc., Buffalo, N. Y., 1954. p. 51.

The problems of conflicting social and individual interests are so intense, and motivations to treatment so strongly emotional in the area of mental disorder, that it has been difficult to evolve specific and objective standards. There is a general agreement that most confirmed offenders are mentally abnormal.

> The recognition today of the role of intelligence, emotional organization, social circumstances, and conditioning in an individual's history has made obsolete the old simple conceptions of free will. With growing recognition of the criminal's individual needs, evaluations of responsibility have become tenuous to the point where many authorities deny entirely the validity of the concept and adhere instead to the deterministic thesis that man's behavior is shaped by forces beyond his independent control. Ideas of partial responsibility, of irrestible impulses, psychopathic personality, have come to the full vigors of a retributive justice, but the ancient rationale persists as the essential design. The best that may be said for the retributive motive is that it sometimes satisfies the public sense of justice, the demand for requital of a wrong. Aristotle long since recognized the deep public need for the criminals expiation to "restore a balance" in society.1/

The "welfare of society", it seems, has become a common shibboleth to justify, or condemn, widely assorted forms of social interests, behavior and actions. Sutherland in his study of "white collar crime"2/ has shown that business and professional men not infrequently resort to criminal practices; and that such practices are to a high degree accepted tolerantly by their associates, and treated leniently by society and

---

1/Paul W. Tappan, Contemporary Correction, McGraw-Hill Book Co. Inc., New York, Toronto, London, 1951. p. 7.

2/E. H. Sutherland, White Collar Crime, The Dryden Press, Inc., New York, 1949. Chapter 14.

the courts. Sutherland points out that, on the other hand, it has been proven that the most striking characteristic the large number of criminals have in common is emotional immaturity.

Mental Disorder and Religion

"Clergymen enter where psychiatrists and psychologists fear to tread", according to Dr. Saltzman. "Psychotherapy can release man", he explained, "but only religion can create 'the value judgments' community life requires of him".[1/]

> Psychoanalysis must be advanced to a process of psychosynthesis. The trouble with psychiatry is that people become too concerned with personal happiness and tend to neglect the responsibilities of community living. Modern psychiatry has provided us with the means to penetrate the depths of our hearts and minds and has given us remarkable insights into human dynamics. However, the religious process of self-analysis is not to be equated with psychoanalysis and many other methods of psychotherapy. Religion must stand for a moral system and the moral implications of a man's act should be defined by it. Psychiatry, on the other hand, does not and cannot, make such a valued judgment and decision for the person (or patient). It can only release him from the bonds which torment him and prevent his recreation.[2/]

The question often arises as to how the counseling of the chaplain differs from that of a psychologist, psychiatrist, social worker, and such. Without entering into any possible confusion or complicated arguments, it is known, and has been observed, that wherever the chaplain has been accepted as a member of the therapeutic team, there are always a number of individuals who tend to gravitate naturally to the represent-

---

1/From a sermon given at a Temple April 13, 1957 by Rev. Dr. Manuel Saltzman. (Reviewed in the New York Times, April 14, 1957.)

2/Ibid.

ative of religion. The religious worker oftimes can search farthest into the obscure recesses of the human personality, be it disordered or not, to find concepts and methods of value. Perhaps of basic importance is the concept of misbehavior as symptomatic of deeper distortions of human relationships and human values. From this, the concept of treatment of these distortions follows.

Perhaps more than any other professionally trained person, the chaplain is able to function in the education of the lay public. His training has prepared him to interpret the findings of the various professions to his people and the community. He is able to make understandable what the doctor, the social worker, the educator, and others are striving to accomplish.

> Churches, through spiritual guidance, can help children to gain the proper perspective and develop character that enables them to overcome temptations and face difficulties with confidence. They likewise can provide spiritual guidance by private counseling. In its role as a community institution, the church provides opportunities for young people to form wholesome associations.1/

The church, and/or the chaplain, can provide an effective program in community life that could be a dynamic part in the prevention of personality disorders and abnormal behavior. The chaplain is in a position of advantage to point out the conditions which must be met not only to prevent social deviation, but to foster individual, family, and community health.

In addition to the above, the chaplain has another goal:

1/Martin H. Neumeyer, op. cit., p. 391-392.

> Not interested in law for its own sake, he is interested in the law as it reflects the outlook of the man in the street. The chaplain's efforts will be directed toward interpreting to the average person, and thus ultimately to the law makers, that abnormal behavior, delinquency, and crime, are symptoms of an illness, and that the offender against the law is in need of care and treatment rather than mere isolation and punishment.[1]

We must, of course, bear in mind that there are many types of religion, and many types of churches. Of the many definitions of religion, two seem to stand out.

> Religion is thought of on the one hand as a matter of belief or creed; on the other, as a matter of ideals. Man's morals, however, are the patterns of behavior which his groups approve. One of these groups is his church.[2]

1/Paul W. Tappan, op. cit., p. 264.

2/Donald R. Taft, op. cit., p. 215.

CHAPTER III

PROCEDURE USED IN GATHERING DATA

The general objective of this research project is to gather information and facts of general value to aid in determining a "Yes" or "No" answer to the specific question indicated in Chapter I, i.e.: "Is John Doe considered competent to handle his financial affairs?" Being cognizant of the possibility of five variations in the handling of the problem as there are five states involved, it seemed best to define singly and as clearly as possible the data obtained and procedure followed with each individual state. When and where possible, and available, it was felt that written or printed data pertaining to the statutes be obtained, and with each state such an endeavor was made.

To one who is not working in this area, or who has not been close to a problem of this sort, it seems obvious that he would not be aware of the necessary procedures or legal aspects pertaining to commitment cases and the question of mental competency or incompetency. The general public may occasionally have some awareness of the problem from occasional newspaper articles relating to a will being contested due to the question of whether or not the writer of the will was competent or not. That the general public has little awareness of the factors involved when a person is committed, is borne out by the fre-

quent queries of the family when a member is committed and found to be incompetent. A few excerpts from the queries of families and relatives are: "Why can't I have his payment check?" "Who is going to support me and the children? We've got to have money." "I don't worry about my husband's pay, but who is going to take care of the monthly payments ($70) on the car?" "I'm Councilman ___ at the State House from Ward___. I want to ask why you haven't let Mr. ___ go back to his job?"

These few excerpts may serve to some extent to impress the reader with the public's lack of knowledge regarding this problem and the importance and need of this survey.

In order to get first hand information on this study, data was obtained in the following manner:

1. Personal interviews were arranged where feasible; otherwise, telephone interviews were used.

2. Information was obtained by telephone as to the person responsible or department concerned with the problem.

3. Interviews, both personal and telephone, were arranged by telephoning the desired office. In every case the said office personnel was receptive and friendly and arranged the appointment as requested. The response of the interviewee was prompt in all cases but varied as to enthusiasm and concern. It was felt that the professional person showed more concern and gave more effort to assist than the non-professional person.

4. As specific data was requested and required, it was found that the non-professional worker, although in charge of

the department, was not always responsible for the decision pertaining to the specific questions; and this therefore, could be attributed to what was inferred as his lack of concern.

The two specific queries regarding employees considered disabled with mental disorders and committed to State Institutions are:

a. Is John Doe considered competent to handle his financial affairs?
b. Is John Doe's driving license revoked due to said commitment?

(This pertains to the many employees whose daily work requires the driving of a motor vehicle.) In all instances these two questions were asked.

Steps That Were Taken for Interview

1. The appointment was made by telephone, for either a personal or telephone interview.

2. The call was made at the appointed time.

3. The proper name and identity was given.

4. The reason for the contact was explained.

5. It was explained that the problem included research in the area for a Master's thesis being done at Boston University.

6. In every instance a discussion of the importance of the problem was revealed as well as the extenuating circumstances involved. This usually included the legal handling, along with the financial needs for care of the family, cost of medical care, possible need for rehabilitation, and other social or family problems.

7. A minimum of one hour was spent in the personal inter-

views, and in one instance it was over two hours. The telephone interviews lasted for 20 to 30 minutes. On closing each interview it was left by both the interviewer and interviewee that should additional data be required or deemed necessary, further contacts were invited and would be arranged. All persons contacted fully realized the desirability and the necessity of striving for and arranging a clear-cut working policy.

8. The printed data requested was obtained at the time of the personal interview, or forwarded by mail to the interviewer. In one state there was no printed data available.1/ 2/

9. In some instances two contacts were necessary. This was usually when one person did not have the complete data, or felt additional information would be of value and would more or less supplement what had been provided.

10. In all contacts the current knowledge of the statutes was received and their interpretation discussed.

Types of Respondents Providing Data

1. Commissioners of State Departments of Institutions.
2. State Hospital Superintendents.
3. Chief Psychiatric Social Workers.
4. Assistant Commissioner State Mental Health Department.

1/For printed data received see Appendix.

2/Statutes pertaining to this problem in the state of New Hampshire are incorporated in the book "General Laws of New Hampshire"; purchase price $25.00 and available at the State House in Concord, N. H. It was advised that the purchase of this book was unnecessary and all involved were in agreement.

5. Agent in State Department of Employment Security.

6. Group Meeting with Commissioner of Massachusetts Motor Vehicle Department.

7. Supervisor Welfare and Guardianship State Mental Health Department.

Procedure Used in Gathering Data by States

Maine

1. Telephoned State House, Augusta, to learn of person or department officially responsible for handling individuals with mental disorders.

2. Telephoned office (as advised) of Commissioner of Department of Institutional Services. Identified self and explained purpose of call and requested appointed time to call and talk with commissioner.

3. Telephoned commissioner at appointed time. Interview lasted from 20 to 30 minutes.

4. Requested printed data pertaining to statutes and procedures. Referred and advised to contact superintendent of State Hospital in Augusta.

5. Telephoned State Hospital superintendent. Identified self and explained purpose of call and requested appointed time to call and talk with superintendent. Advised to return call in 20 minutes.

6. Returned telephone call to superintendent. Interview regarding problem lasted 30 minutes to which he agreed comprehensive survey was of value.

New Hampshire

1. Telephoned superintendent State Hospital at Concord, who was "away for a week."

2. Telephoned chief psychiatric worker at hospital, identified self and explained purpose of call. Several factors were discussed; however, advice was to confer with superintendent on his return. Worker agreed to make personal appointment as requested. Interview lasted 20 minutes.

3. Telephoned worker the following week and received an appointment for personal interview.

4. Personal conference with superintendent of hospital lasted one hour. Superintendent felt survey was pertinent, timely, and most desirable. (No printed data available - see page 35.)

Vermont

1. Telephoned State House at Montpelier. Referred to Commissioner of Department of Institutional services.

2. Telephoned commissioner's office to request appointed time to call commissioner. Identified self and explained purpose of call.

3. Telephoned commissioner at appointed time. Interview lasted 30 to 40 minutes in which time various aspects of the problem were discussed. Printed data was requested pertaining to statutes and procedures relating to Mental Health. It was agreed that there are many factors involved pertaining to this subject and a comprehensive study of the significant factors considered warranted in order to clarify the handling of the

problems and establish a working policy.

Rhode Island

1. Telephoned State House for printed data and to learn proper department or person to contact. Advised such handled at State Welfare Office and no printed data available. Person answering could not give any advice as to who could give assistance.

2. Telephoned psychiatric social worker in Mental Hygiene Division of Rhode Island for suggestions and she agreed to have data sent.

3. Received printed data by mail from Department of Social Welfare Division of Business Services and telephone call was made to thank them.

4. Telephoned Superintendent of State Hospital in Howard, R.I. Talked with secretary and identified self and requested an appointment explaining purpose and received appointment promptly.

5. Arrived at appointed time for personal conference and was advised superintendent was called to "emergency conference with the Governor" and that chief psychiatric social worker would give assistance and another appointment with superintendent would be arranged if so desired.

6. Conference with social worker lasted one and a half hours. The conference proved fruitful for both the interviewer and the interviewee. It was agreed there are many misunderstandings in this area and that by a survey of this type much would be gained.

7. Telephone interview with hospital superintendent followed to clarify and amplify a few pertinent factors, and this was cared for promptly and with enthusiasm. This interview lasted 20 to 25 minutes.

Massachusetts

1. Telephoned Department Mental Health requesting copy of statutes and regulations pertaining to the department and was advised that department was currently working on revision of some of the procedures and that new booklet was to be printed. An appointment was requested to confer with Assistant Commissioner of Mental Health whom, I was advised, was writing the new procedures. After identifying self and purpose, a conference was requested and an appointment was promptly arranged.

2. Conference with assistant commissioner at appointed time lasted for two and one-half hours. He was most enthusiastic and concerned regarding the problem and made every effort to answer questions and explain all procedures necessary. It is hoped that by this survey an improved and more comprehensive policy will result as it appears that all are in agreement that there has been some confusion regarding procedures in this area. The supervisor handling welfare and guardianship problems was called into this conference at the request of the assistant commissioner, and although this prolonged the interview much of value was gained.

3. Attended three-hour group conference in which State Registrar of Motor Vehicles and his assistant discussed the

revoking of an individual's driving license when he has been committed to a State Hospital for a mental disorder. The group consisted of psychiatric workers, psychiatrists, psychologists, workers of various states from the Veteran's Administration, and rehabilitation workers. There were approximately 35 persons who attended the conference and entered into the discussion. In the State of Massachusetts a committed person's driving license is automatically revoked by statute.

The workers in this field are fully aware of this necessity of determining whether or not the individual with a mental disorder is considered competent or incompetent, and of the problems involved. All persons contacted were most interested and grateful that an attempt was being made to seek a solution to this problem of commitment versus competency and to obtain the necessary data in an attempt to trace the meanings of the various procedures and statutes.

CHAPTER IV

ANALYSIS OF SURVEY

A composite summary of the results of the interviews and data received will be attempted. The prompt and courteous replies of the persons interviewed and their time given is indicated by the cooperation, interest, and concern received in this study. With this evidence of interest and unity of purpose, it is hoped, in time, for a better understanding of the primary needs of the mentally disordered that will essentially lead to a clarification of the statutes and procedures pertaining to their care and commitment. It became obvious in this survey that the problem of seeking a fair and just answer to the question sought in this paper is widespread.

It should be stated that the awareness of the legal aspect involved in this study is known and realized. In this country the various states have enacted statutes prescribing the definite method of procedure to be followed in determining whether a person is insane, and in each state the statute must be strictly adhered to. All legal problems concern not only the welfare of the individual, but also his relations with the social group.

Even when the point at issue is a commitment to a hospital for treatment, the decision rests not on the presence or absence of a particular disease, but on the question of the man's ability to live in accordance with social conventions and regu-

lations. A man is not deprived of liberty and sent to a hospital for mental disease because he has general paralysis, but because his disease, by the damage it causes, renders him a menace to himself and others. Laws relating to insanity have been framed for the dual purpose of protecting society and of safeguarding the rights of the afflicted individual. The rights of an individual include all of the inherent constitutional rights as to life, liberty, and property of which he cannot be deprived without due process of law. All medicolegal problems are, therefore, essentially social, and extend beyond the immediate consideration of the patient to that of the community in which he lives. The principle factor in the maintenance of society is the regulation of the behavior of individuals, which can only be effected through the operation of their minds. Disturbance of this regulation means social difficulty and it is only natural, when antisocial or unsocial behavior is observed, that there should often arise doubts as to the normal mentality of the offender.[1/]

Analysis of Survey by States

Maine

The Commissioner of the Department of Institutional Services is vested with the authority of carrying out the statutes pertaining to the handling of individuals with mental disorders for the state.

The committing of an individual to a state hospital may be

1/Singer and Krohm, op. cit.

handled three ways:

1. On the signature of two doctors in good standing.
2. By court procedure.
3. By a municipal officer.

All commitments are considered as temporary pending the findings of the hospital staff. The length of a temporary commitment varies from a few days to ten days. The outcome is that the person is either discharged from the institution as sane and competent; or, that the temporary commitment has been recommended (and is) changed to a prolonged or "regular" commitment. This "regular" commitment is for an indefinite length of time and in some instances may last from months to years, depending on the findings and recommendations of the hospital staff. Each case is handled on an individual basis and on its own merits. A committed person is not assumed or judged to be incompetent. The decision or recommendation as to the person's competency or incompetency is made by the superindentent of the State Institution pending the findings of the staff. Any paper or statement signed by the superintendent to the effect that a person is considered competent or not is legal and upheld in any probate court in the state of Maine.

In this state a committed person's driving license is not revoked, and neither are the names of individuals committed reported to the State Motor Vehicle Department.

The termination of a commitment is also the decision of the superintendent. When a person is deemed sufficiently able to leave the hospital he is released for six months on a "trial

visit." At the end of six months the commitment is either terminated or extended according to the superintendent's judgment on recommendations based on the findings of the staff. A request for terminating a commitment can be made during this period in which case the superintendent is responsible for the decision and recommendation.

There is also what is termed a voluntary commitment in this state, whereby a person may present himself to the hospital for admission and care. In this type of commitment the statute provides that the person may request a discharge from the institution within a limited number of days and this request must be acted upon within the limited time.

New Hampshire

The responsibility of the handling of individuals in this state is comprised of a board of eight persons of which the hospital superintendent (New Hampshire has only one State Hospital) is the chairman. The final decision on all matters in this area rests with the chairman of the board. The chairman is always the superintendent of the hospital.

The usual procedure for committing a person is on the recommendation and signatures of two doctors in good standing. It is rare that a person is committed otherwise in this state. The term "commitment" does not imply, nor is interpretated to mean, that the person is considered incompetent to handle his financial or personal affairs. The responsibility and decision as to the query regarding a committed person's competency or not is delegated to the hospital superintendent, and his signa-

ture on a statement to this effect is sufficient and legal. Commitments are in effect for an indefinite period of time pending the staff findings and recommendations. Individuals are released from the hospital when deemed advisable and are on "parole" (trial visit) for six months at which time the commitment is terminated. Requests for termination of a commitment prior to this time are all duly considered and when advisable, are recommended and become effective.

In this state a committed person's driving license is automatically revoked at the time of commitment, and the person is not eligible to request reinstatement until the end of the six months parole, or when the commitment is terminated. A report of a current examination by a psychiatrist is then required by the State Motor Vehicle Department before any license is reinstated.

The hospital is required to notify the Motor Vehicle Department on all persons committed to the institution.

Vermont

The Commissioner of the Department of Institutions is vested with the authority of carrying out the statutes pertaining to the problems relating to individuals with mental disorders for this state too. This is similar to the handling in the state of Maine. The commissioner of institutions in Vermont, is, by virtue of his office, the State Commissioner of Mental Health. Vermont also has a State Board of Mental Health consisting of three persons, two of whom are physicians and one a non-medical person. This board acts by and through the com-

missioner. The board acts on problems concerned with commitments such as the appeal of a commitment, and investigates queries pertaining to persons that may or may not be wrongfully confined to a state institution. The board also has power to grant conditional discharges from a mental institution. The hospital superintendent refers and reports to the board before the final decision on any problem is made. The superintendent makes his recommendation to the board for this final decision. In most cases the board abides by the recommendation of the superintendent.

As to the question of a person's competency, the superintendent along with his staff determine this and make the recommendation to the board who agrees with and depends on his judgment. The superintendent's signature indicating whether a person is competent or not is sufficient and legal in this state.

Commitments are either by court procedure or on the signature and recommendations of two doctors. About 80 per cent of the commitments in this state are by court procedure and the remaining 20 per cent are by doctors. All commitments in Vermont are "for an indefinite period." The superintendent of the institution can recommend terminating a commitment at any time he feels the person to be well and sane. This recommendation too, is honored by the board unless there are, or may be, extenuating circumstances to contra-indicate such action. There is no specific length of time involved in commitments in the State of Vermont.

A committed person's driving license is not automatically revoked in Vermont, nor is reporting to the State Motor Vehicle Department required. However, should the license expire during the person's period of commitment any renewal would be held pending investigation into said person's mental condition.

Rhode Island

From the data obtained it appears there are three types of commitments in this state:

1. A person can be committed to the State Hospital on the advice and signature of two doctors in good standing. In this instance the family or interested party then brings the person to the hospital.

2. A person can be committed by the District Court in which case the hospital sends for the person who is picked up at the police station where said person is being held.

3. A voluntary commitment whereby a person can present himself at the hospital for medical investigation.

After a person is committed by the court, the court no longer has any jurisdiction over the person. The superintendent of the hospital is then responsible and determines the handling of each case on an individual basis. Any discharge of a person (or patient) is on the advice and recommendation of the superintendent. The superintendent's signature on any data or statement is considered legal and is upheld in the courts. A release from the hospital indicates, as in other states, that the person is out of the hospital on a "trial" basis and is not considered as discharged from the hospital. As a rule all per-

sons (or patients) are released on a trial basis for a period of six months after which time a complete discharge is recommended and becomes effective, and the so termed commitment is terminated. This of course does not take place should the person's condition regress during the six months trial period or release.

The superintendent of the hospital determines whether or not a person is considered competent to handle his financial affairs depending upon the findings of his staff.

The same problem of whether or not a person is considered as competent to sign his check prevails at this State Hospital as with other states. The state does not insist that a legal guardian be appointed. However, in some cases the family takes the initiative and does have one appointed. Another method of handling checks is for the superintendent to be designated as "the custodian" for a person, or persons, thereby expediting the handling of the individual's check. Another way the problem is cared for is by having an "agent", and this procedure is used by several insurance companies, the Social Security Offices, the State Cash Sickness Program, and the Veteran's Administration. A person termed an "agent" is usually a member of the committed person's family, or a friend. For instance, the "agent" contacts the office where the check originates to advise them of his intent. This office then corresponds with the hospital to obtain a statement of the person's condition as well as to advise the hospital of the intent of having an "agent" assigned. This "agent" must then sign a statement to

the effect that he will be responsible for all needs of the person hospitalized, and this statement is kept on file in the particular office.

Still another way of handling the checks of individuals who are committed is by having the originating company or agency process the check to read "Superintendent of Hospital in behalf of John Doe". All concerned would have to be in agreement should this method be used.

The superintendent can also designate whether or not a person is considered competent to handle a motor vehicle.

Of interest in this state is that in 1954 the Attorney General ruled that any committed person who is able to go out of a hospital on a "trial" visit for a few days, a weekend, or for six months be allowed to vote in all political elections.

A monthly report of all persons committed to the State Hospital, and all who are discharged, is required and sent to the Governor's Commission handling State institutions.

Massachusetts

The usual commitment procedure in Massachusetts is via the District Court. This commitment was formerly termed a "10 day paper", or a commitment for a period of 10 days. This 10 day period has now been extended to 30 days, although should the staff findings indicate there is no mental disorder present, the individual involved is then discharged from the hospital promptly. Should the person be found to have a mental disorder, the commitment period is usually extended for a period of a year, although it may be for an indefinite period.

Police officers in this state, too, have authority by law to commit a person to a mental institution for a period of 10 days only.

A person can also voluntarily enter a state mental institution for a 10 day period to be studied and observed. This is termed a "voluntary commitment" and is terminated at the end of the 10 day period should the superintendent so approve.

The hospital superintendent has the authority to decide as to whether or not a committed person is competent to handle his financial and personal affairs.

If the commitment period is to be lengthy, as well as the period of hospitalization the State recommends that a legal guardian be appointed, unless there is only a small amount of money involved. The amount of money mentioned is $500, and the state will take the necessary steps to have a guardian appointed should the committed person's family refuse to do so. There is a record kept in the State Mental Health Department offices of all guardians appointed.

The superintendent of the hospital has the authority to terminate a commitment at any time he feels it is advisable. As a rule all individuals are released from the hospital on a trial visit for a year before their commitment is terminated. In some instances, however, the superintendent can recommend and does terminate a commitment at various times within this year's trial period.

The law in Massachusetts is that a person's driving license is immediately revoked at the time he is committed.

The State Motor Vehicle Department strictly adheres to this ruling. Following the termination of a person's commitment he can apply to the Motor Vehicle Department for a reinstatement of his license. The procedure then required by this department is for the person to present to them a report of a current examination by a qualified psychiatrist. This report is then evaluated and the decision as to reinstating the person's license is made. In some instances, in addition to the psychiatrist's report, character references are also required. A license is never reinstated while a person's commitment is still in effect.

CHAPTER V

CONCLUSIONS, RECOMMENDATIONS, AND REFLECTIONS

An attempt was made in this study to obtain factual data to determine and answer the query "Is John Doe considered competent to handle his financial affairs?" It also comprises efforts directed toward investigation into this area to familiarize one with the importance of this data.

As a result of a study of this research, the following conclusions have been made:

1. Greater need for a comprehensive study of the statutes as to their consistency.

2. Need for more research in the science of behavior and personality.

3. More cooperation between all sciences.

4. Better understanding between medical and legal professions.

5. Need of proper education in the area of mental hygiene.

6. Need of uniformity in procedures and statutes.

In this country the various states have enacted statutes prescribing the definite method of procedure to be followed in determining whether a person is insane, and incompetent, and in each state the statute must be strictly followed.

In reviewing the statutes of the various states a lack of uniformity can be noted; and this would be more pronounced

were the statutes of the 48 states included in this survey. In some states the legal steps by statutes can be considered as humane, sympathetic, and thoughtful; while in others, the person who is mentally affected is regarded in much the same manner as a criminal.

It is realized that without legal authorization no one may be confined against his will and this is true of those who are mentally disordered. In all jurisdictions there are statutes governing the commitment of the mentally deficient and the mentally ill or insane. An insane person may be lawfully restrained when not to do so would endanger his own life or the lives of others. Although it is said that it would be difficult, if not impossible, to give a precisely accurate definition of the "insane person", the word "insane" implies every degree of unsoundness of the mind. The state is vested with the power and the duty to care for and to control the insane for their protection and for the protection of the public. A review of the laws enacted by the various states tends to show the divergence and conflicts in the statutes which in some instances serve to increase the difficulties, as to inquiry, commitment, final discharge, and to create certain morbid ideas pertaining to mental disorder in general.

There is a need of establishing a procedure that could be used by all states. We are a nation "on the move" and the conflicting statutes in the various states for this specific problem regarding the care of the insane appears inconsistent. The gravity of the problem of humane disorder and maladjustment is

inherent in social and economic issues as well as in the care of the individual. The cost of maintaining and operating institutions for the mentally disordered must be considered, as well as the necessities of housing, maintenance, administration, and the like. It is obvious that a comprehensive survey, with the hope of acquiring one overall procedure would involve many means, instrumentalities, consume time, and require long resources. In addition, there would be the need of educating and arousing citizens (as did Dr. Briggs in 1909,[1/] to obtain legislation to improve the care and treatment of the mentally ill. However, efforts in this direction should be expanded to include specific suggestions and constructive action that can be taken by the tide of public opinion to aid in finding a solution to the problem.

Central to the interest of the psychiatrist are the disturbances called "mental". Here, the psychiatrist calls upon the psychologist for guiding principles approved within the field of normal and general psychology, and for the method and outcome within the field of the abnormal and the deranged. It is highly desirable that psychiatry should acquire the habit of carrying its unsolved problems to the natural and supporting sciences. Although each of the special subjects thus appealed to is autonomous and self-determining in its own domain, all of them may be considered together, in the relation indicated, to the understanding and the treatment of mental disorder. Cannon

1/See Appendix - Briggs' Law

made a great contribution to psychiatry by his work on the sympathetic nervous system and the endocrine glands, along with an understanding of the mechanism by which certain emotions affect the central nervous system. There are various investigations that have been done, and are being done, that are bringing psychiatry closer to the fundamental or supporting sciences. There is room for all good workers, and there is much work in this area.

Since the concern of psychiatry is with the restoration of the ailing to health, it follows that it is interested likewise in the prevention, so far as possible, of mental disorder. Law, like psychiatry, deals largely with the conduct of human individuals and their relations with their fellows. Since the evolution of human from animal society, man has had his conduct regulated by law. It is hard to conceive of any legal case or question which does not involve the behavior or the motivations of some person. From this it seems reasonable to expect psychiatry would be interested in the administration of the law; and the law's administrators would desire to benefit by psychiatric progress. This, however, does not seem to be the case in most instances. The law tends to proceed on the basis of psychological assumptions which are not in line with prevailing psychiatric points of view. Furthermore, not only has the law in certain fields been extremely hesitant to keep up with psychiatric progress, but some lawyers and judges have been extremely critical of the findings of psychiatry and have shown the greatest reluctance to learn.

Probably no branch of criminal law has been the subject of so much criticism and controversy as the defense of insanity. Laws based on the notion of mental disorder are discredited by modern science; and the law is strangely lax in its use of the word insanity. Insanity as a defense in criminal prosecutions is a question of fact for the jury to determine under proper instructions of the court, just as other facts are determined by the jury. It is a rule in this country that investigation into the mental condition of one alleged to be insane is an essential procedure before the state can assume control over his person or property. When insanity has been judicially determined, the entire legal status of the individual involved changes. He becomes a ward of the court and his civil rights are suspended both as to person and property. The fundamental legal principle appears to be that a product of mental disorder, deemed insane, cannot be held responsible for a contract, a deed, a will, a crime, or such.

Modern psychiatry and psychology has adapted certain standards of measurement for designating the degree of mental deficiency, the significance of which must be clearly grasped if serious misunderstandings are to be avoided. It must be distinctly understood that such tests measure only certain particular features and are not in any sense a measure of the capacity of the individual to adjust himself to the conditions of life. When it is stated, for example, that the mental age is ten years, it means that, with the tests used, the man has succeeded in passing satisfactorily tests that are passed by the

average child of ten. The conditions that cause the arrest in development of the brain are not operative in a uniform manner; they involve some parts of the brain to a greater degree than others. What actually happens, is an irregular development which cannot correspond with any normal stage in evolution. Instincts and desires, such as those of sex, which do not depend, except for their control, on the functioning of the brain appear with maturity of the body even in feebleminded persons. Intelligence tests are used to some degree in courts today. The rule more often is to refuse the use of them presuming that children, as well as adults of low mental age, are incapable of having criminal intentions. One of the chief objections to the use of tests in the courts is their reported lack of validity. However, this could be debated either way. It is known that tests have been used to prove that the defendant was responsible for his actions. Gradually, these difficulties are being overcome as many laboratories are working on methods and tests which will eventually result in securing standards that are applicable and acceptable. Too, there is a strong trend today toward providing for pre-sentence examinations for possible mental disorder of persons convicted of serious crimes, as well as persons convicted for a second time on a minor offense. Psychiatry and psychology can probably make its greatest contribution to criminal justice at this point.

In a majority of persons brought for advice and care there is no assignable organic cause for mental disorder. If it should be ultimately proved that mental life is based on the

nervous system, it would be that the mechanism works according to the way it is handled. Some workers in this area have been working on the idea that insane behavior may arise as a product of learning. Such symptoms of insanity that do occur result from the operation of the laws that govern all mental life. The point of interest here is simply the fact that these practitioners recognized disordered conduct as of common origin with ordered conduct, originating in experience.

In 1898 Thorndike supplied a contribution of facts established by experimental theory and the laws of learning followed. From this point of view it follows that the prevention and/or the correction of mental disorder is a problem of the education of the emotions from the earliest years. Education might prevent people from building their own emotional traps of unrevised habits. Children should be consistently taught to solve their emotional predicaments instead of escaping from them into an unreal world. Progressive development can be secured in typical cases by making it more satisfying to move on than to remain static. Children and adults may be told what to do, but they will not do it unless they can be strongly motivated. To tell him he will not be as comfortable in ten years hence makes no impression, save in a few exceptional cases. Essential education for the prevention of mental disorder is not mere verbal instruction; but an affair of actual deeds that favor progress toward adequacy in the future. In speaking of the aims of education in this area we must mention fortitude as an educational goal. This is not because fortitude is good in itself, but more

because the nature of the world demands it for an independent life.

It should be stated that mental disorder cannot be completely prevented by education. There are several reasons for this such as organic brain disorders and constitutionally unstable infants. There will still be mental disorder even when education has done its best. However, it is reasonable to believe that the frequency of the disorder might be substantially reduced if what is now known in educational psychology could be more widely applied. During life no one ever achieves a state of complete equilibrium emotionally or physically.

Samuel Butler's quote seems worthwhile here:

> All our lives long, every day and every hour, we are engaged in the process of accommodating our changed and unchanged selves to changed and unchanged surroundings; living, in fact, is nothing else than a process of accommodations; when we fail in it a little we are stupid, when we fail flagrantly we are mad, when we suspend it temporarily we sleep, when we give up the attempt altogether we die.1/

1/Winfred Overholser, M.D., ScD., "The Psychiatrist and the Law," Harcourt, Brace and Co., New York, 1954. (The Isaac Ray Award Series.)

BIBLIOGRAPHY

BIBLIOGRAPHY

1. Allport, Gordon, Personality, a Psychological Interpretation. Henry Holt and Co., New York, 1937.

2. Anastasi, Anne, Psychological Testing. The Macmillan Co., New York, 1954.

3. Anastasi, Anne, Differential Psychology. The Macmillan Co., New York, 1937.

4. Brown, Esther Lucille, PhD., "Contribution of the Behavior Sciences to Understanding in Public Health Nursing", Part I in American Journal of Public Health, June, 1956.

5. Cattell, Raymond B., Personality. McGraw-Hill Book Co., New York, London, Toronto, Canada, 1950.

6. Darley, John Gordon, Testing and Counseling in the High School Guidance Program. Science Research Association, Chicago, Atlanta, 1943.

7. Davidson, Henry A., M.D., "Can Psychoneurosis Mature into Psychosis?" in Mental Hygiene, January, 1957.

8. Deutsch, A., The Mentally Ill In America. Columbia University Press, New York, 1949.

9. Ebaugh, Franklin G., M.D., "Age Introduces Stress into the Family", Industrial Nurses Journal, April, 1957.

10. Garrett, A., Interviewing: Its Principles and Methods. Family Service Association of America, New York, 1942.

11. Gilbert, Louis Jay, M.D., "Team Guidance - A Dimension of Education", in The Journal of Educational Sociology, April, 1957.

12. Gordon, Arthur, "Happiness Doesn't Come in Pills," in Reader's Digest, January, 1957. (Condensed from article in Woman's Day, January, 1957).

13. Greenblatt, Milton, M.D., Richard H. York, PhD., and Esther Lucille Brown, PhD., in collaboration with Robert W. Hyde, M.D., From Custodial To Therapeutic Patient Care in Mental Hospitals. Russell Sage Foundation, New York, 1955.

14. Guttmacher, Manfred S., and Henry Weihofen, Psychiatry and the Law. W. W. Norton & Co., Inc., New York, 1952.

15. Hanman, Bert., "The Eternal Struggle for Adjustment" in Industrial Medicine and Surgery, January, 1957. (This article, the editors advise, is Chapter V of a new book published by American Mutual Liability Co., Boston, titled Physical Abilities to Fit the Job.)

16. Hoover, J. Edgar, "Needed: A Quarantine to Prevent Crime," in This Week's Magazine of Boston Sunday Herald, March 10, 1957.

17. Hoppock, Robert, Group Guidance Principles, Techniques, and Evaluation. McGraw-Hill Book Co., Inc., New York, London, Toronto, 1949.

18. Jacoby, George W., M.D., The Unsound Mind and the Law. Funk and Wagnalls Co., New York, London, 1918.

19. James, T. F., "How Would You React In a Family Crisis?" article in Cosmopolitan, February, 1956.

20. Jennings, H. S., The Problem of Mental Disorders. A study by the National Research Council for Psychiatric Investigations, 1934. (Carnegie Corp).

21. Johnson, Orval G., "The Teacher and the Withdrawn Child", in The Education Digest, April, 1957.

22. Jones, Evelyn D., PhD., and Chester D. Babcock, "Developing Civic Values Through the Social Studies," in Journal of Education, October, 1954.

23. Jung, Carl, "The Old Wise Man", article relating to Carl Jung in Time Magazine, February 14, 1955.

24. Lolli, Giorgio, M.D., "Nurses for Alcoholics", in Public Health Reports, August, 1956.

25. Mayo, E., The Human Problems of an Industrial Civilization. Macmillan Co., New York, 1933.

26. McCloy, Charles H., Tests and Measurements in Health and Physical Education. F. S. Crofts and Co., New York, 1939.

27. McFarland, Ross A., PhD., "The Role of Pregentive Medicine in Highway Safety", in American Journal of Public Health, March, 1957.

28. Menninger, Karl A., The Human Mind. A. A. Knopf, New York, 1945.

29. Menninger, Karl A., Man Against Himself. Harcourt, Brace and Co., New York, 1938.

30. Moyer, K. E., "Relationship Between Emotional Elimination and the Persistance of an Anxiety Motivated Response", in the Journal of Genetic Psychology, March, 1957.

31. Neumeyer, Martin H., Juvenile Delinquency in Modern Society. D. Van Nostrand Co., Inc., Toronto, New York, London, 1955.

32. Newcomb, Theodore M., Social Psychology. Dryden Press, New York, 1950.

33. Newmann, Henry, M.D., "Moral and Spiritual Values", in Journal of Educational Sociology, April, 1957.

34. Overholser, Winfred, M.D., ScD., The Psychiatrist and the Law. Harcourt Brace and Co., New York, 1953. (The Issac Ray Award Series).

35. Overman, Richard R., PhD., "Applied Physiology: An Analysis of Fainting", in Modern Medicine, August 15, 1956.

36. Prince, Morton, The Unconscious. Longmans, Green and Co., New York, London, and Bombay, 1924.

37. Reed, A. Y., Guidance and Personnel Services in Education. Cornell University Press, Ithaca, New York, 1944.

38. Regan, Louis J., M.D., L.L.B., Doctor and Patient and the Law. C. V. Mosby Co., St. Louis, 1949.

39. Roethlisberger, F. J., and W. J. Dickson, Management and the Worker. Harvard University Press, Cambridge, Mass., 1942.

40. Sappenfield, Bert R., Personality Dynamics. Alfred A. Knopf, New York, 1954.

41. Shneidman, E. S., and N. L. Farberow, "Clues to Suicide", Public Health Reports (Feb., 1956) 71:109.

42. Sifneos, P. E., C. Gore, and A. C. Sifneos, "A Preliminary Psychiatric Study of Attempted Suicide as Seen in a General Hospital", in American Journal of Psychiatry, (May, 1956) 112:883.

43. Singer, H. Douglas, M.D., and Wm. A. Krohn, M.D., PhD., Insanity and Law. P. Blakiston's Son and Co., Philadelphia, 1924.

44. Sorenson, Herbert, Psychology in Education. McGraw-Hill Book Co., New York, 1948.

45. Sutherland, Edwin H., Principles of Criminology. J. P. Lippincott Co., Chicago, 1939. (3rd edition).

46. Sutherland, E. H., White Collar Crime. The Dryden Press, Inc., New York, 1949.

47. Taft, Donald R., Criminology, A Cultural Interpretation. The Macmillan Co., New York, 1950.

48. Tappan, Paul W., Contemporary Correction. McGraw-Hill Book Co., Inc., New York, Toronto, London, 1951.

49. Terman, Lewis M., Intelligence of School Children. Houghton, Mifflin Co., Boston, New York, 1919.

50. Valentine, Alan C., The Age of Conformity. Henry Regnery Co., Chicago, 1954.

51. Warren and Carmichael, Elements of Human Psychology. Houghton, Mifflin and Co., New York, 1930.

52. Weihofen, Henry, Mental Disorder as a Criminal Defense. Dennis and Co., Inc., Buffalo, N. Y., 1954.

53. Wharton and Stilles,"Medical Jurisprudence", Mental Unsoundness, The Lawyer's Coop. Publishing Co., Rochester, N. Y., 1905. Volume I, (5th edition).

54. Wolff, H. G., Feelings and Emotions. M. L. Reyment, New York, 1950.

55. Young, Kimball, Mental Deficiency and Crime. Henry Holt and Co., Inc., New York, 1931.

APPENDIX

STATE OF MAINE
REVISED STATUTES OF 1954
Chapter 27

COMMITMENT OF THE INSANE

Sec. 103. Duties of parents and guardians of insane minors. - Parents and guardians of insane minors, over 12 years of age, if of sufficient ability to support them there, shall within 30 days after an attack of insanity, without legal examination, send them to either the Augusta or the Bangor State Hospital and give to the department the bond required; or they may send them to some other hospital for the insane, within said period.

Sec. 104. Municipal officers may commit to the hospitals. - Insane persons, over 12 years of age, not thus sent to any hospital, may be admitted to state institutions for the insane but shall be subject to examination as hereinafter provided. The municipal officers of towns shall constitute a board of examiners, and on complaint in writing of any blood relative, husband or wife of said alleged insane person, or of any justiceof the peace, they shall immediately inquire into the condition of any person in said town alleged to be insane; shall appoint a time and place for a hearing by them of the allegations of said complaint, and shall cause to be given in hand to the person so alleged to be insane, at least 24 hours prior to the time of said hearing, a true copy of said complaint, together with a notice of the time and place of said hearing and that he has the right and will be given opportunity then and there to be heard in the matter; shall call before them all testimony necessary for a full understanding of the case; and if they think such person insane and that his comfort and safety of others interested will thereby be promoted, they shall forthwith send him to either the Augusta or the Bangor state hospital or to an institution established and maintained within this state by the United States government for the care and treatment of persons who have been in the military or naval service of the United States and are suffering from mental disease, with a certificate stating the fact of his insanity, and the town in which he resided or was found at the time of his examination, together with a statement of facts under oath satisfactory to the department in regard to the financial ability of such patient, or of any of his relatives legally liable to pay for his support, and directing the superintendent to receive and detain him until he is restored or discharged by law, or by the superintendent or department.

Sec. 105. Emergency cases. - Pending the issue of such certificate of commitment by the municipal officers, such sup-

erintendent may receive into his hospital any person so alleged on complaint to be insane, provided such person be accompanied by a copy of the complaint and physicians' certificate; which certificate shall set forth that in the judgment of the physicians the condition of said person is such that immediate restraint and detention is necessary for his comfort and safety or the safety of others; and provided further, that unless within 15 days thereafter said superintendent shall be furnished with the certificate of commitment hereinbefore provided for, the detention of such person shall cease. Said municipal officers shall keep a record of their doings and furnish a copy to any interested person requesting and paying for it.

In addition to the certificate of commitment, a statement of facts under oath in regard to the financial ability of such patient, or of any of his relatives legally liable to pay for his support, shall be furnished the superintendent of the hospital.

Sec. 106. Evidence of 2 physicians required. - In all cases of preliminary proceedings for the commitment of any person to the hospital, to establish the fact of the insanity of the person to whom insanity is imputed, the evidence of at least 2 reputable physicians given by them under oath before the board of examiners shall be required, together with a certificate signed by such physicians and filed with said board, that in their opinion such person is insane, such evidence and certificate to be based upon due inquiry and personal examination of the person to whom insanity is imputed; and a certified copy of the physicians' certificate shall accompany the papers of commitment of the insane person to the hospital.

Sec. 107. Jurisdiction of justices of peace to commit. - If the municipal officers neglect or refuse, for 3 days after complaint is made to them, to examine and decide any case of insanity in their town, complaint may be made by any blood relative, husband or wife of said alleged insane person, or by any justice of the peace, to 2 justices of the peace; and the 2 justices to whom such application is made shall immediately inquire into the condition of such alleged insane person and shall proceed in the manner provided in section 104.

Sec. 108. Justices to keep record; fees. - Such justices shall keep a record of their doings and furnish a copy thereof to any person interested requesting and paying for it; they shall be entitled to the same fees as for a criminal examination, to be paid by the person or corporation liable in the first instance for the support of the insane person in the hospital.

Sec. 109. Execution of order for commitment. - When such justices order a commitment to a hospital, the municipal officers of the town where the insane resides, or such other per-

son as the justices direct, shall cause such order to be complied with forthwith at the expense of the town; and after such commitment is made, the justices shall decide and certify the expenses thereof.

Sec. 113. Examination of insane persons. - No person shall be declared insane or sent to any institution for the insane by municipal officers or by a judge of probate, or by any other person or persons constituting a board of examiners charged with authority to inquire into the condition of a person alleged to be insane, unless the person alleged to be insane shall first have been examined by 2 reputable physicians, each of whom shall have been a duly licensed and practicing physician in this state, who shall be appointed by said municipal officers or by the probate judge, or by any examining board before whom proceedings are held, and neither of whom, or of said members, shall be related to the person alleged to be insane or related to the person or persons making complaint and such physicians shall have certified that the person examined is in fact insane.

Sec. 114. Penalty for false testimony. - Any person who shall willfully cause or attempt to cause, or who shall conspire with any other person to cause any person who is not insane to be committed to any institution for the insane, and any person who shall knowingly certify falsely to the insanity of any person in any certificate, or testify falsely at any hearing to inquire into the condition of a person alleged to be insane, and any person who shall knowingly report falsely to any court or to any person or persons charged with authority to inquire into the condition of the person alleged to be insane shall be punished by a fine of not less than $100, nor more than $1,000, or by imprisonment in the state prison for not less than 1 year, nor more than 5 years, or by both such fine and imprisonment.

Sec. 115. Voluntary patients may be received at state hospitals for insane; release on request. - The superintendent in charge of either of the state hospitals to which an insane person may be committed may receive and detain therein, as a boarder and patient, any person who is desirous of submitting himself to treatment and who makes written application therefor, and whose mental condition, in the opinion of the superintendent or physician in charge, is such to render him competent to make the application. Such superintendent shall give immediate notice of the reception of such voluntary patient to the department. Such patient shall not be detained for more than 10 days after having given notice in writing of his intention or desire of leaving the institution. The charges for support of such a voluntary patient shall be governed by the laws or rules applicable to the support of an insane person in such institutions.

*Sec. 116. Transfer of insane persons from out of the state institutions. - The commissioner may, upon the request of a competent authority of a state other than Maine, or of the District of Columbia, grant authorization for the transfer of an insane patient directly to a Maine state hospital; provided that said patient has a settlement in a Maine municipality acknowledged by the municipal officers thereof; that said patient is currently confined in a recognized state institution for the care of the insane as the result of proceedings considered legal by that state; that a duly certified copy of the original commitment proceedings and a copy of the patient's case history is supplied; that if, after investigation, the commissioner shall deem such a transfer justifiable; and that all expenses incident to such a transfer be borne by the agency requesting same. When the commissioner has authorized such a transfer, the superintendent of the state hospital designated by him shall receive the patient as having been regularly committed to said hospital under the laws of this state.

Sec. 117. Care of insane members of armed forced; status. - Any member of the armed forces of the United States, who was a resident of this state at the time of his induction into the service, who shall be determined by a federal board of medical officers to have a mental disease not incurred in line of duty, shall be received at either of the state hospitals for the insane in the discretion of the commissioner, without formal commitment, upon delivery of such person, together with the findings of such board of medical officers that such person is insane, at the hospital designated by said commissioner.

After delivery of such person at the hospital designated by said commissioner, his status shall be the same as if he had been committed to the hospital under the provisions of section 104.

(*Please note revision of this section as amended by Chapter 231 of the Public Laws of 1957 enclosed. This amendment will not become effective until ninety days after Legislature adjourns.)

FORM 1

TO BE RETAINED ON THE TOWN FILES

To the Municipal Officers of.....in the County of.....and State of Maine:

(a).....of.....in the County of.....and State of Maine, who is a.....relative, to wit, a.....of (b).....of.....in the County of.....and State of Maine, hereby makes written complaint and says that said (b).....is insane; and that the comfort and safety of said (b).....and that of others interested will be promoted by committing the said (b).....to the.....State Hospital.

WHEREFORE your complainant prays that you will immediately inquire into the condition of the said (b).....and that such other and further proceedings may be had in the premises as is by the Statutes of said State of Maine in such case made and provided.

Dated at said.....this.....day of.....A. D. 19 .

STATE OF MAINE

County of.....ss. Town or city of.....

The above named complaint being presented to us this day we hereby appoint our office and (c) .....the.....day of.....A. D. 19 , at.....o'clock in the.....noon, as the time and place for a hearing by us of the allegations of said complaint. And we hereby give notice to the said (b)..... the person as above alleged to be insane, of said time and place of said hearing, and that he, the said (b).....has a right and will be given an opportunity then and there to be heard in the matter.

Given under our hands at said.....this.....day of.....A. D. 19 .

.....
.....
.....
.....
} Selectmen of .....

STATE OF MAINE

(d)

County of.....ss. Town of..... A. D. 19 .

I hereby certify that I this day at.....o'clock in the.....noon delivered in hand to (b) .....the within named alleged insane person, a true copy of the within complaint and the order of the Municipal Officers thereon, of even tenor with the within.

Attest:

.....

Constable of said

(a) Name of complainant.
(b) Name of insane person.
(c) The time must be so as to give at least 24 hours prior notice of the hearing to the person alleged to be insane.
(d) As soon as the constable has given in hand to (b) the attested copy—form 2—he will fill out and sign the above return of such service.

FORM 1

COMPLAINT

and

ORDER OF HEARING

and

NOTICE

In the Case of

.....

FORM 2

TO BE GIVEN IN HAND TO THE ALLEGED INSANE PERSON BY THE CONSTABLE

To the Municipal Officers of.....in the County of.....and State of Maine:

(a).....of.....in the County of.....and State of Maine, who is a.....relative,* to wit, a.....of (b).....of..... in the County of.....and State of Maine, hereby makes written complaint and says that said (b).....is insane; and that the comfort and safety of said (b).....and that of others interested will be promoted by committing the said (b).....to the.....State Hospital.

WHEREFORE your complainant prays that you will immediately inquire into the condition of the said (b).....and that such other and further proceedings may be had in the premises as is by the Statutes of said State of Maine in such case made and provided.

Dated at said.....this.....day of..... A. D. 19 .

.....

(Signature of complainant)

STATE OF MAINE

County of.....ss. Town or city of.....

The above named complaint being presented to us this day we hereby appoint our office and (c) .....the.....day of..... A. D. 19 , at.....o'clock in the.....noon, as the time and place for a hearing by us of the allegations of said complaint. And we hereby give notice to the said (b)..... the person as above alleged to be insane, of said time and place of said hearing, and that he, the said (b).....has a right and will be given an opportunity then and there to be heard in the matter.

Given under our hands at said.....this..... day of.....A. D. 19 .

.....

.....

.....

.....

Municipal Officers of

A true copy of the original complaint and the order of the Municipal Officers thereon.

ATTEST:

.....*Clerk of said*

(a) Name of complainant.
(b) Name of insane person.

* *Note*:—Complainant must be a blood relative, husband or wife, or a justice of the peace, or notary public.

FORM 2

COMPLAINT

and

ORDER OF HEARING

and

NOTICE

In the Case of

.....

TO BE SERVED ON HIM

FORM 2A

TO BE DELIVERED WITH PATIENT TO THE HOSPITAL AT TIME OF ADMISSION UNDER EMERGENCY COMMITMENT

To the Municipal Officers of.....in the County of.....and State of Maine:

(a).....of.....in the County of.....and State of Maine, who is a.....relative,* to wit, a.....of (b).....of..... in the County of.....and State of Maine, hereby makes written complaint and says that said (b).....is insane; and that the comfort and safety of said (b).....and that of others interested will be promoted by committing the said (b).....to the.....State Hospital.

WHEREFORE your complainant prays that you will immediately inquire into the condition of the said (b).....and that such other and further proceedings may be had in the premises as is by the Statutes of said State of Maine in such case made and provided.

Dated at said.....this.....day of..... A. D. 19 .

.....

(Signature of complainant)

STATE OF MAINE

County of.....ss. Town or city of.....

The above named complaint being presented to us this day we hereby appoint our office and (c) .....the.....day of..... A. D. 19 , at.....o'clock in the.....noon, as the time and place for a hearing by us of the allegations of said complaint. And we hereby give notice to the said (b)..... the person as above alleged to be insane, of said time and place of said hearing, and that he, the said (b).....has a right and will be given an opportunity then and there to be heard in the matter.

Given under our hands at said.....this..... day of.....A. D. 19 .

.....

.....

.....

.....

Municipal Officers of

A true copy of the original complaint and the order of the Municipal Officers thereon.

ATTEST:

.....*Clerk of said*

(a) Name of complainant.
(b) Name of insane person.

* *Note*:—Complainant must be a blood relative, husband or wife, or a justice of the peace, or notary public.

FORM 2A

COMPLAINT

and

ORDER OF HEARING

and

NOTICE

In the Case of

.....

EMERGENCY

TO BE DELIVERED TO HOSPITAL WITH PATIENT

FORM 3

COMMITMENT OF INSANE PERSON TO THE HOSPITAL

STATE OF MAINE

To the Superintendent of the ..... State Hospital:

WHEREAS, on the ..... day of ..... A. D. 19..... (a) ..... of ..... in the county of ..... and State of Maine, and who bears the relationship of ..... to (b) ..... of ..... in the County of ..... and State of Maine, made to us, the Municipal Officers of ..... in the County of ..... and State of Maine, a complaint in writing stating that the said (b) ..... is insane, and a proper subject for commitment to and treatment in said hospital; and thereupon we appointed our office in said ..... and the ..... day of ..... A. D. 19 , and the hour of ..... o'clock in the .....noon as the place and time for a hearing by us of the allegations of said complaint, and caused to be given in hand to the said (b) ..... at ..... o'clock in the .....noon of the ..... day of ..... A. D. 19 , a true copy of said complaint, together with a notice of the time and place of said hearing and that the said (b) ..... had the right and would be given opportunity then and there to be heard in the matter; and at our office in said ..... at ..... o'clock in the .....noon of the ..... day of ..... A. D. 19 , being the place and time appointed therefor, as aforesaid, we made due inquiry into the condition of the said (b) ..... called before us all testimony necessary for a full understanding of the case, and also heard the testimony under oath of, accompanied by a certificate of (c) ..... and ..... two reputable physicians, whose evidence and certificate are based upon due inquiry and personal examination of the said (b) ..... establishing the fact of the insanity of the said (b) .....

WHEREUPON, it was proven to us and we are of the opinion that the said (b) ..... is insane, and that the safety and comfort of the said (b) ..... and that of others interested, will be promoted by the commitment to and detention in said hospital of the said (b) ..... and that the said (b) ..... be sent forthwith to said hospital.

THEREFORE we hereby certify that said (b) ..... is insane and that ..... was residing and found in ..... aforesaid at the time of said examination; and you, the said Superintendent, are hereby ordered and required to receive said (b) ..... into said hospital and detain ..... in your care until ..... shall have become restored and of sound mind, or be discharged by law, or by the Superintendent, or Commissioner, Institutional Service.

Given under our hands at said ..... this ..... day of ..... A. D. one thousand nine hundred and .....

.....

.....

.....

.....

Municipal Officers of

Mem. (a) Name of complainant.
(b) Name of the insane person.
(c) Names of physicians.

Note:—The above form cannot be made out until 24 hours have elapsed after the notice has been served on the insane person. This form must accompany the patient to the hospital except when the emergency provision is used, in which case this form should be sent to the Superintendent within 15 days after notice of hearing has been served on patient.

FORM 3

COMMITMENT

to the

..... Hospital

of

.....

AN INSANE PERSON

(a) Name of complainant.
(b) Name of the insane person.
(c) Names of physicians.

Record of doings of Municipal Officers in Commitment of Insane Person to the Hospital to be signed by Municipal Officers and Clerk and filed with city or town records.

STATE OF MAINE

To the Superintendent of the.....State Hospital:

WHEREAS, on the.....day of.....A. D. 19.....
(a).....of.....in the County of.....
and State of Maine, and who bears the relationship of.....to (b).....
of.....in the County of.....and State of Maine,
made to us, the Municipal Officers of.....in the County of.....
and State of Maine, a complaint in writing stating that the said (b).....
is insane, and a proper subject for commitment to and treatment in said hospital; and thereupon we appointed our office in said.....and the.....day of.....
A. D. 19 , and the hour of.....o'clock in the.....noon as the place and time for a hearing by us of the allegations of said complaint, and caused to be given in hand to the said (b).....
.....at.....o'clock in the.....noon of the.....day
of.....A. D. 19 , a true copy of said complaint, together with a notice of the time and place of said hearing and that the said (b).....had the right and would be given opportunity then and there to be heard in the matter; and at our office in said .....at.....o'clock in the.....noon of the.....
day of.....A. D. 19 , being the place and time appointed therefor, as aforesaid, we made due inquiry into the condition of the said (b).....called before us all testimony necessary for a full understanding of the case, and also heard the testimony under oath of, accompanied by a certificate of (c).....and.....
two reputable physicians, whose evidence and certificate are based upon due inquiry and personal examination of the said (b).....establishing the fact of the insanity of the said (b).....

WHEREUPON, it was proven to us and we are of the opinion that the said (b).....
.....is insane, and that the safety and comfort of the said (b).....
.....and that of others interested, will be promoted by the commitment to and detention in said hospital of the said (b).....and that the said (b).....be sent forthwith to said hospital.

THEREFORE we hereby certify that said (b).....is insane and that.....was residing and found in.....aforesaid at the time of said examination; and you, the said Superintendent, are hereby ordered and required to receive said (b).....into said hospital and detain.....in your care until.....shall have become restored and of sound mind, or be discharged by law, or by the Superintendent, or Commissioner, Institutional Service.

Given under our hands at said.....this.....day
of.....A. D. one thousand nine hundred and.....
.....
.....
.....
.....

Municipal Officers of

A true record,
Attest:

Clerk of

FORM 5

PHYSICIANS' CERTIFICATE OF INSANITY

(Original) Do not detach.

(a)

We, the undersigned, reputable and practicing physicians of.....
County of.....and State of Maine, hereby certify that, after due inquiry and personal examination of.....of.....
in our opinion said.....is INSANE.

Dated at.....this.....day of.....19 .

.....M. D.

.....M. D.

FORM 4

RECORD

of

COMMITMENT

of

.....

to the

.....

FORM 5

PHYSICIANS' CERTIFICATE OF INSANITY

(a)

We, the undersigned, reputable and practicing physicians of ..... County of ..... and State of Maine, hereby certify that, after due inquiry and personal examination of ..... of ..... in our opinion said ..... is INSANE .....

.....

Dated at ..... this ..... day of ..... 19.....

..... M.D.

..... M.D.

(b)

A true copy of the physicians' certificate to Municipal Officers.

Attest:

Clerk of said .....

(a) The original certificate is to be filed with and retained by the Municipal Officers.

(b) This certified copy of the physicians' certificate is to be forwarded with the commitment paper to the Superintendent of the Hospital.

Note:—In cases of emergency, when it is inadvisable to hold the patient for 24 hours pending hearing, and no other legal objection is raised, the words "and immediate restraint or detention is necessary for h..... comfort and safety or the safety of others," should be written in after the word, "INSANE," by the physicians.

FORM 5

PHYSICIANS' CERTIFICATE

In the Case of

.....

AN INSANE PERSON

FORM 6

AUGUSTA STATE HOSPITAL

STATEMENT OF FINANCIAL RESPONSIBILITY

1. Name and address of patient .....

.....

2. Has patient a pauper settlement in your city or town? ..... (yes or no)

If not, where is his or her settlement? .....

3. Has patient property of any description? ..... If yes, state kind, location and approximate value of property .....

.....

.....

4. Has patient any relatives liable by law for his or her support in the hospital? ..... (yes or no) If yes, give names, relationship and addresses .....

.....

.....

.....

.....

.....

5. To what extent has patient been a public charge in your city or town? .....

.....

The undersigned ..... hereby certify that the patient has or has not means for support in the hospital or relatives liable by law who are financially able to support him or her in the hospital.

.....

Municipal Officers of

.....

.....

STATE OF MAINE

County of ..... ss. ..... 19.....

Personally before me appeared the above named Municipal Officers of ..... and made oath to the truth of the foregoing statement.

.....

Notary Public, or Justice of the Peace

STATE OF RHODE ISLAND
EXCERPTS FROM CHAPTER 71 OF THE GENERAL LAWS OF 1938

Sec. 1. Whenever complaint in writing and under oath shall be made to any justice or clerk of a district court, that any person within the county is insane so as to be dangerous to the peace or safety of the people of the state, or so as to render his restraint and treatment necessary for his own welfare, such justice or clerk shall issue his warrant under his hand and seal, returnable forthwith, directed to the sheriff, deputy-sheriffs, chiefs of police, town sergeants, or constables in said county, requiring the officer charged therewith to apprehend such person and have him, with such warrant, before such or some other district court for examination relative to such complaint at such time and place within the district as shall be named in the warrant. And whenever such complaint shall be accompanied by a certificate signed by 2 practicing physicians in this state, which shall declare that said alleged insane person is an invalid or that his condition, mental or physical, is such that he cannot, without serious prejudice to his welfare, be examined in open court, district courts are hereby empowered and directed to hold such examinations at such times and places within their districts as shall be most conducive to the health and comfort of the person to be examined, naming the place of examination in each mittimus of commitment, if such shall be made; but when an examination is made at any other place than in open court such justice shall not commit such person to an asylum without having the testimony of 2 practicing physicians of good standing that such person is so insane or in need of restraint.

Sec. 2. If the court on such examination shall adjudge such complaint to be true, it shall, unless some provisions for the adequate restraint and treatment of such person satisfactory to said court shall be made, commit such person by warrant under its hand and seal to the Butler Hospital or the state hospital for mental diseases. And it shall be lawful for the director of public welfare at any time to, and at the request of the trustees of the Butler Hospital he shall, cause any person committed to said Butler Hospital under the provisions of this section, wholly or in part supported by the state, to be transferred to said state hospital for mental diseases, there to be detained in the same manner as if he had been originally committed to said state hospital under the provisions of this section; and in case any pauper committed under the provisions of this section shall be found to have a home or settlement in another state, it shall be lawful for the director of public welfare to remove such pauper to the place where he has such home or settlement.

Sec. 41. The superintendent or keeper of any hospital for the insane in this state may receive and retain therein as a board-

er and patient any person who is desirous of submitting himself to treatment and who makes a written application therefor, but whose mental condition is not such as to render it legal to grant a certificate of insanity in his case. No such boarder shall be detained for more than 3 days after giving notice in writing to the superintendent of such hospital of his intention or desire to leave such hospital.

Sec. 47. Upon the written application of the parent, guardian, relative or friend of any insane person, accompanied by the certificate of two practicing physicians, registered in the State of Rhode Island, that such person is insane, the director of public welfare is hereby authorized to receive such insane person for care and treatment upon such terms as may be fixed by said director in his discretion.

Sec. 49. The superintendent of the state Hospital for mental disease, acting under the direction of the director of public welfare, and the superintendent of the Butler Hospital, acting under the direction of the trustees thereof, may, whenever they respectively shall deem it for the welfare of any inmate, and consistent with the public safety, permit any of the inmates of said hospitals committed thereto under the provisions of Sections 1, 2, and 47 of this chapter, to leave the said respective hospitals, temporarily, in charge of his guardian, relatives or friends, for a period of not exceeding 6 months, and receive him whenever returned by said guardian, relatives or friends within such period, without further order of commitment.

Sec. 50. The superintendent of the State Hospital for mental diseases, acting under the direction of the director of public welfare and subject to his approval, may transfer any inmate of the said hospital committed thereto under the provisions of sections 1, 2, and 47 of this chapter, whenever he shall deem it for the welfare of the inmate, to the custody of any hospital under the control of or belonging to the government of the United States. Such inmate may be detained in such hospital under the control of or belonging to the government of the United States until, in the judgment of the superintendent of the state hospital for mental diseases to which such inmate was originally committed, and the director of public welfare, he is restored to sound mind, or his detention is no longer necessary for his own welfare or for the safety of the public.

TDI-13

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Employment Security

Division of Temporary Disability Insurance

P. O. Box 1927 Providence 1, R. I.

Telephone UNion 1-7800

AFFIDAVIT OF AGENT FOR INCAPACITATED CLAIMANT

I, _____ (Name of Agent), of _____ (Residence), on oath depose and state that claimant _____ (Name of Claimant), _____ (Social Security Number) who has filed for benefits under the Rhode Island Temporary Disability Insurance Act is my _____ (Relationship of Claimant); that claimant is presently a patient at _____ (Name of Institution), _____ (Address), where claimant has been confined since _____ (Date); that I have been informed by the physician who is treating claimant that claimant is not capable of endorsing checks or filling in the necessary information required in connection with Proof of Claim; that on claimant's behalf and as agent for claimant I do hereby despose and state that the claim filed by me contains true and accurate answers to the questions appearing on "Claimant's Statement" and that all such claims and other statements and documents as will be required of me in the future as agent of claimant will also contain true and accurate statements with respect to the matters therein contained.

I do further state that any and all checks which may be received by me as agent for claimant will be applied to and for and on behalf of and benefit of claimant. I will indemnify and save harmless the Department of Employment Security for any misapplication of benefit checks and for any loss, cost, damage or liability which the Department of Employment Security may or will suffer by reason of granting benefit payments to me as the agent of claimant; that the cashing of checks by me and on behalf of claimant will constitute a release of any and all claims which the claimant may have against the Rhode Island Department of Employment Security for an account of the rights and privileges of claimant to Rhode Island Temporary Disability Insurance benefits.

It is understood that this affidavit is made for the purpose of obtaining such Temporary Disability Insurance benefits as are available to the claimant and I do accept the responsibilities and obligations arising pursuant to the statement made herein and the accounts and undertakings pursuant thereto.

Subscribed and sworn to before me
this _____ day of _____,
A.D., 19

_____
Authorized Agent of Claimant

_____
Notary Public

~~committed, discharged, paroled or dies. The auditor shall furnish all necessary forms for making such reports.~~
~~1951, No. 170, §362.~~

Sec. 363. Voluntary patients. The superintendent, managing officer or person in charge of a mental institution or hospital for the insane may receive and detain therein, as a voluntary patient, a person who is desirous of submitting himself to treatment and makes written application therefor, without a certificate of two physicians as required in the case of insane persons.

Such person shall not be detained within such hospital after having given to the superintendent, managing officer or person in charge five days' notice in writing that he desires to leave such institution. In case the superintendent shall find that the going-at-large of such patient would not be for his interest and the interest of the public, he shall advise action for the commitment of such patient.
1951, No. 170, §363.

Sec. 364. Same; treatment and control. A person admitted to such a mental institution or hospital, under the provisions of the preceding section, shall be subject to the rules and the moral, medical and sanitary treatment thereof while such patient is at such institution or hospital.
1951, No. 170, §364.

Sec. 365. Penalty. An officer or person in charge of such a mental institution or hospital who violates a provision of section 363 shall be imprisoned not more than one year or fined not more than $200.00 or both.
1951, No. 170, §365.

Restraint of Insane Persons

Sec. 366. Guardian and overseer to restrain. The legal guardian of an insane person not a pauper, and the overseer of the poor of the town in which an insane person who is a pauper resides, when such insane person is not placed in a mental institution or hospital for the insane, shall keep him under such restraint as may be necessary to prevent his going at large.
1951, No. 170, §366.
V. S. §6628.

Sec. 367. Notice to guardian or overseer. If an insane person is found going at large, and, in the opinion of the selectmen of the town where he is so found, is deranged so as to be an unsafe person to be at large, the selectmen may notify the guardian of such insane person, or, if a pauper, the overseer of the town where such insane pauper resides, to take charge of and restrain him from going at large.
1951, No. 170, §366.
V. S. §6629.

Sec. 368. Neglect; penalty. A guardian or overseer of the poor who, after being so notified by the selectmen, neglects for six days to restrain such insane person from going at large, or thereafter fails to restrain him from going at large within the limits of such town, shall be fined $25.00 for each such neglect or failure.
1951, No. 170, §366.
V. S. §6630.

Sec. 369. Application for guardian. If an insane person, not a pauper, found going at large in a town has no legally appointed guardian, application for the appointment of a guardian over him may be made to the probate court of the district in which such insane person resides, by the selectmen of the town where he is found going at large, in the same manner

and to be followed by the same proceedings as upon an application by the overseer of the poor of the town in which such insane person resides or is chargeable.
1951, No. 170, §366.
V. S. §6631.

Sec. 370. Same; procedure. When an application is made to the probate court, as provided in the preceding section, the same notice of the application and of the time and place of hearing shall be given to the overseer of the poor of the town in which such supposed insane person resides, as is required to be given to such supposed insane person. If the court adjudges such person insane, and orders the appointment of a guardian, and no one accepts and qualifies for such trust within twenty days thereafter, the overseer of the poor of such town shall be subject to the same duty and liable to the same penalty under the provisions of this chapter as though such person were an insane pauper.
1951, No. 170, §366.
V. S. §6632.

Sec. 371. Effect of judgment. If such court, upon such application, adjudges the person insane, but does not appoint a guardian for the reason that such insane person is a pauper, and the selectmen thereafter proceed against the overseer of the poor of the town where such insane person resides, as provided in this chapter, the decision of the court that such insane person is a pauper shall be conclusive against the overseer in such proceedings.
1951, No. 170, §366.
V. S. §6633.

Sec. 372. Insane person taken into custody. The selectmen, after giving the guardian or overseer the notice provided in this chapter, may take such insane person into custody, and keep him in such confinement as is necessary until removed by the guardian or overseer; and the necessary expenses thereby incurred, after the expiration of such six days, or, when such insane person is taken into custody at any subsequent time, under the provisions of this chapter, may be recovered of the guardian or overseer, in an action of tort, on this statute, in the name of the town.
1951, No. 170, §366.
V. S. §6634.

Commitment of Insane

Sec. 373. Commitment procedure; physicians' certificate. A person, except as otherwise provided, shall not be admitted to or detained in a mental institution or hospital for the insane as a patient or inmate except upon the certificate of such person's insanity made by two legally qualified physicians, residents of this state. Such certificate shall contain a statement that the physicians making the same are each legally qualified to practice as a physician in the state, and the reasons for adjudging such person insane. The physicians making such certificate shall not be members of the same firm; and neither shall be an officer of a hospital for the insane in this state, nor a member of the board.
1951, No. 170, §373.

Sec. 374. Oath; certificate of magistrate. Such physicians shall subscribe and make oath to such certificate before a magistrate authorized to administer oaths. The magistrate shall append thereto his jurat and certify therein that such physicians are of unquestionable integrity and skill.
1951, No. 170, §374.

Sec. 375. Certificate; when made. Such certificate shall be made and sworn to not more than twenty days before the admission of the insane person to a mental institution or hospital for the insane, unless a longer time is required to dispose of an appeal taken from the decision of the physicians as provided by law, and shall be in the hands of the proper officer of such institution or hospital at the time such insane person is received therein.
1951, No. 170, §375.

Sec. 376. Examination; penalty. Such certificate of the physicians shall be given only after a careful examination of the supposed insane person made not more than five days previous to making the certificate. A physician who signs a certificate without making such examination, if the person is admitted to a mental institution or hospital for the insane upon the certificate, shall be imprisoned not more than two years or fined not more than $1,000.00, or both.
1951, No. 170, §376.

Appeal

Sec. 377. Appeal, jury trial. A person whose insanity is so certified or any resident or nonresident guardian or next friend or relative of such person may appeal from the decision of the physicians so certifying to such person's insanity to the probate court for the district in which such person resides or in which the mental institution or hospital for the insane to which such person is committed is situated. Such appeal may be taken at any time after such certificate is made or while such person is confined by virtue of such certificate, and such right to an appeal shall extend to any physician's certificate heretofore made and shall have the same force and effect upon all parties as though such right to an appeal had been expressly provided by statute when such person was originally confined. Such appeal shall be made by petition to such court setting forth the certificate and praying for hearing by such court on appeal. Notice of such appeal shall be given in such manner as the court may direct to such of the following persons as may not be the appellant or appellants; the person whose insanity is so certified, any resident or nonresident guardian of such person, to the person or officer, if any, who is responsible for the support of such person, to the state's attorney of the county, who shall appear and represent the interests of the state, and to the superintendent or acting head of the hospital in which such person is confined who shall note such appeal on the certificate. The court shall cause a jury of twelve citizens of the county to be summoned by a sheriff, deputy sheriff or constable designated for that purpose by the court. Such jury shall be drawn as a jury is drawn, in an action before a justice of the peace, except that only six persons may be challenged. The probate court shall keep a record of trials of appeals under this section.
1951, No. 157, §377.

Sec. 378. Fees allowed. There shall be allowed to jurors and officers summoned to serve in a probate court pursuant to the provisions of the preceding section the same fees as are allowed jurors and officers in the county court, to be paid by the state.
1951, No. 170, §378.

Sec. 379. Verdict, judgment. Such jury, under the supervision of the court, shall hear the evidence and counsel, and by verdict find whether the person is insane. If the jury finds the person insane, the court shall certify the verdict and thereupon such person may be committed and detained in a mental institution or hospital for the insane as the law provides. A copy of such certificate shall be filed by the committing officer with the superintendent of the institution or hospital to which such person is com-

mitted. If the jury finds that such person is not insane the court shall vacate the certificate of the physicians.
1951, No. 170, §379.

Sec. 380. Appeal to county court, when not granted. From the verdict, certificates and judgment of the probate court, under the provisions of the preceding section, an appeal may be taken to the county court as is provided in section 3090 and proceedings thereupon had as provided in chapter 149, (Vermont Statutes) except that a bond or security for costs shall not be required in case of an appeal by the state or by the alleged insane person. Pending such appeal, the person whose insanity is so found and certified shall be and remain committed. An appeal shall not be granted in case the verdict of the jury in the probate court is that the person is not insane.
1951, No. 170, §380.

Sec. 381. Commitment pending appeal or without certificate; penalty. When an appeal is taken from the decision of such physicians as provided in section 377 of this act, such alleged insane person shall not be received or retained in a mental institution or a hospital for the insane while the appeal is pending before the probate court, provided however that the court may, in its discretion, order the commitment or retention of such alleged insane person if it finds on evidence satisfactory to it that such person is insane and dangerous.
1951, No. 170, §381.

Sec. 382. Penalty. A trustee or other officer or employee of a mental institution or a hospital for the insane who receives or detains a person in such institution in violation of the provisions of this chapter shall be imprisoned in the state prison not more than three years.
1951, No. 170, §382.

Order of Court

Sec. 383. Same; order of court. A person may be received into a mental institution or hospital for the insane pursuant to an order of the supreme or county court, upon the presentation of a certified copy of the order or sentence, without the physicians' certificate mentioned in this chapter.
1951, No. 170, §383.

Support of Insane Persons

Sec. 384. Insane person, not pauper, may be supported by the state. An insane person residing in the state shall be supported at the state hospital or at the retreat, at the expense of the state, when the income of such insane person and the earnings of the husband or wife and minor children of such person are not sufficient for the support of such person and that of the husband or wife and minor children.
1951, No. 170, §384.
V. S. §6645.

Sec. 385. Same; court of inquiry. The husband or wife, parent, child, brother or sister of such insane person, or the guardian of such husband or wife or the guardian of the minor children, or the selectmen of the town or the mayor of the city, where such insane person resides, may institute a court of inquiry before the probate court of the district where such insane person resides, giving at least six days' notice thereof to the insane person and to the state's attorney of the county.
1951, No. 170, §384.
V. S. §6646.

Sec. 386. Commitment at state expense. Such court, on hearing or default, upon adjudicating such person to be insane and in need of hospital treatment and after inquiry as to the income of such insane person and of the persons legally chargeable for his support may order that such insane person be supported in whole or in part in a mental institution at the expense of the state.
1951, No. 170, §384.
V. S. §6647.

Sec. 387. Commitment of insane persons not paupers. The provisions of this title relative to the commitment of insane paupers shall apply to the commitment of insane persons not paupers, in so far as such provisions are not inconsistent with the two preceding sections.
1951, No. 170, §384.
V. S. §6648.

Sec. 388. Duty of state's attorney. A state's attorney, when notified of a hearing under the third preceding section, shall attend and represent the state.
1951, No. 170, §384.
V. S. §6649.

Sec. 389. Statement of property and income. The probate court, upon the hearing of a cause instituted before it for the purpose of determining whether a person shall be committed to a mental institution, shall find and, in its order for the commitment of an insane person to such an institution, shall state the amount of property owned by such insane person and the amount of pension or annuity payable to him.
1951, No. 170, §384.
V. S. §6650.

Sec. 390. Property appropriated for support. If an insane person supported at the expense of the state in a mental institution had, at the time of commitment, or thereafter acquires, real or personal estate, or a pension or annuity, the same shall be appropriated towards the support of such person in such institution except as otherwise provided.
1951, No. 170, §384.
V. S. §6651.

Sec. 391. Amount of property ascertained. If an insane person during confinement in a mental institution or hospital for the insane at the expense of the state, becomes the owner of any property, pension or annuity, the probate court, on application of a person interested, and on notice to persons interested, shall ascertain the amount thereof and certify the same to the superintendent of the institution or hospital where such insane person is confined. If such insane person is not a resident of this state, the probate court in the district where such institution or hospital is located shall have jurisdiction.
1951, No. 170, §384.
V. S. §6652.

Sec. 392. Guardian to contribute. The guardian of an insane person confined in a mental institution at the expense of the state shall contribute from such insane person's estate, towards his support in such institution, such sum as the probate court directs. Nothing in this section shall take from the guardian the right to agree with the superintendent of such an institution upon the amount he will contribute towards the support of his ward; but if they cannot agree, the probate court shall determine the same and the time of payment.
1951, No. 170, §384.
V. S. §6653.

THE PROCEDURES IN MASSACHUSETTS UNDER THE BRIGGS LAW

The insanity plea is frequently abused. Insanity is often feigned. Unscrupulous lawyers will strive to prove mental disease when there is no factual basis for its existence. Specialists will frequently find it possible to argue conscientiously for the side that employs them because of the doubt which frequently surrounds the question of sanity.

Among more conservative methods of partially meeting this problem the Briggs law and related procedures in Massachusetts have been widely advocated. This law as amended provides in sum that when a person is indicted for a capital offense or has been indicted or convicted for any felony more than once, his mental condition shall be examined by the Department of Mental Diseases. The department's report is available both to the court and to the prosecuting and defence attorneys. It is not admissible as evidence, but its availability tends to discourage useless wrangles in court. No restriction is set upon either side calling experts of its own, but the practice has largely ceased. Massachusetts courts also have an asset in their power to commit doubtful cases to a hospital for a period of up to thirty-five days' observation. Experience with this law has shown that a smaller proportion of cases referred for examination were found abnormal than had been expected. Between 1927 and 1934, 15.8 per cent of 4392 cases examined were found to have some mental abnormality, though but 1.5 per cent were immediately found insane. A large proportion of cases found to be mentally defective were nevertheless committed to conventional penal institutions. Certain weaknesses in this law have been recognized, but they are not inherent in such a system. The law has avoided expense of costly trials, reduced "battles of experts," protected the rights of the mentally incompetent accused, indicated a more socially useful disposition which may be made in such cases, and helped educate some of the judges to a more social point of view. However, the law leaves untouched the search for responsibility, which is meaningless to the criminologist.

SECTION 11. **Department to encourage Scientific Investigations. Reports, etc.** The department shall encourage scientific investigation by the medical staffs of the various institutions, shall publish from time to time bulletins and reports of the scientific and clinical work done therein, and shall prescribe to the superintendents or managers of the several institutions the forms of, and periods covered by, the statistical returns to be made by them in their annual reports.

The department may institute inquiries and investigations for the purpose of ascertaining the cause of mental disease, mental illness, epilepsy and mental deficiency. Such studies may be instituted by the department in privately owned schools, clinics or laboratories with the consent of their owners; provided, that they permit the department to supervise the said studies and the use of any equipment required for such studies, and permit all state employees engaged in such studies to observe the hours and working conditions provided for state employees. State employees engaged in such studies in a privately owned institution shall not be required to perform services for the said private institution not related to the study to which they are assigned.

1898, 433, §§ 5, 6. R.L. 87, § 8. 1909, 504, §§ 6, 107. 1955, 637, § 3.

SECTION 20A. **Commitment to Veterans Administration, etc.** (1) Whenever, in any proceeding under the laws of this commonwealth for the commitment of a person alleged to be of unsound mind or otherwise in need of confinement in a hospital or other institution for his proper care it is determined after such adjudication of the status of such person as may be required by law that commitment to a hospital for mental disease or other institution is necessary for safekeeping or treatment and it appears that such person is eligible for care or treatment by said Veterans Administration or other agency of the United States government, the court, upon receipt of a certificate from said Veterans Administration or such other agency showing that facilities are available and that such person is eligible for care or treatment therein, may commit such person to said Veterans Administration or other agency. The person whose commitment is sought shall be personally served with such notice of the pending commitment proceedings as is required, and in such manner as is provided, by the laws of this commonwealth; and nothing in this section shall affect his right to appear and be heard in the proceedings. Upon commitment, such person, when admitted to any facility operated by any such agency within or without this commonwealth shall be subject to the rules and regulations of said Veterans Administration or other agency in so far as they are not inconsistent with the rules of the department. The chief officer of any facility of said Veterans Administration or institution operated by any other agency of the United States to which the person is so committed shall with respect to such person be vested with the same powers and duties as the department with respect to retention of custody, transfer, parole or discharge. Jurisdiction is retained in the commiting or other appropriate court of this commonwealth at any time to inquire into the mental condition of the person so committed, and to determine the necessity for continuance of his restraint, and all commitments pursuant to this section are so conditioned.

(2) The judgment or order of commitment by a court of competent jurisdiction of another state or of the District of Columbia, committing a person to said Veterans Administration or other agency of the United States government for care or treatment shall have the same force and effect as to the committed person while in this commonwealth as in the jurisdiction in which is situated the court entering the judgment or making the order; and the courts of the committing state, or of the District of Columbia, shall be deemed to have retained jurisdiction of the person so committed for the purpose of inquiring into the mental condition of such person, and of determining the necessity for continuance of his restraint as is provided in subsection (1) of this section with respect to persons committed by the courts of this commonwealth. Consent is hereby given to the application of the law of the committing state or district in respect to the authority of the chief officer of any facility of said Veterans Administration or of any institution operated in this commonwealth by any other agency of the United States to retain custody of, or transfer, parole or discharge, the committed person.

(3) Except as provided in section twenty-one, upon receipt of a certificate of said Veterans Administration or such other agency of the United States that facilities are available for the care or treatment of any person committed prior to the effective date of this section to any hospital for the mentally ill or other institution for the care or treatment of persons similarly afflicted and that such person is eligible for care or treatment, the department or the committing court may cause the transfer of such person to said Veterans Administration or other agency of the United States for care or treatment. Upon effecting any such transfer, the committing court or proper officer thereof shall be notified thereof by the transferring agency. No person shall be transferred to said Veterans Administration or other agency of the United States if he is confined pursuant to conviction of any felony or misdemeanor or if he has been acquitted of the charge solely on the ground of mental illness, unless prior to transfer the court or other authority originally committing such person shall enter an order for such transfer after appropriate motion and hearing. Any person transferred as provided in this subsection shall be deemed to be committed to said Veterans Administration or other agency of the United States pursuant to the original commitment.

Commitments, Etc.

Section 50. **Commitment of mentally ill persons. Authority.** A justice of the superior court, in any county, and any of the judges of probate for Suffolk county, the judge of probate for Nantucket county, or a justice or special justice of a district court, except the municipal court of the city of Boston, within his county, may commit to any institution for the mentally ill, designated under or described in section ten, any mentally ill person, then residing or being in said county, who in his opinion is a proper subject for its treatment or custody; but such special justice may make such commitment only in case of the incapacity of the justice, his absence from the district, interest, or relationship to the applicant or to the person to be committed, or when specially authorized by the justice to act in the case, or when the justice is absent from the court building and the special justice is holding court in his place.

1797, 62, § 3.
1833, 95.
1834, 150, § 3.
R.S. 48, § 6.
1839, 149, § 3.
1852, 44.
1853, 318, §§ 1, 2.
1856, 108, § 1.
G.S. 73, §§ 8, 19.
1862, 223, § 3.
1864, 288, § 6.
1867, 355, § 1.
1873, 275.
1874, 258, § 2, 293, § 16; 392, §16.
1879, 195, § 1.
P.S. 87, § 11.
1884, 322, § 9.
R.L. 87, § 33.
1904, 459, § 1.
1905, 447.
1909, 504, §§ 29, 107.
1914, 473.
1918, 287, § 309.
1919, 5; 49, § 1.
1920, 2.
Op. A.G. (1920), 388.
1935, 314, § 4.
1955, 627, 57.

Section 51. Order of Commitment. No person shall be committed to any institution for the mentally ill designated under or described in section ten, except the Walter E. Fernald state school, the Belchertown state school, the Myles Standish state school and the Wrentham state school, unless there has been filed with the court a certificate or certificates in accordance with section fifty-three certifying to the mental illness of such person by two properly qualified physicians, nor without an order therefor, signed by a judge designated in section fifty, stating that he finds that the person committed is mentally ill and is a proper subject for treatment in a hospital for the mentally ill, and either that said person has been an inhabitant of the commonwealth for the six months immediately preceding such finding, or that provision satisfactory to the department has been made for his maintenance, or that by reason of mental illness he would be dangerous if at large. The order of commitment shall also authorize the custody of the mentally ill person either at the institution first named, or at any other institution under the control of the department to which he may be properly transferred.

Upon receipt of an application for commitment the court shall cause written notice to be personally served upon the person named therein informing the said person of the application for commitment and of his right to a hearing at which he can be present and be represented by counsel. A copy of such notice shall be mailed to the nearest relative or guardian of the person served at the last known address of the relative or guardian if such address can be found after diligent search, and such copy shall become a part of the commitment record and be sent with the patient's record in accordance with the provisions of section fifty-four to the institution to which he is committed. The person served shall be allowed forty-eight hours in which to request a hearing, and further time, not less than seventy-two hours, if desired for the preparation of his case. The court may at its discretion hold a private hearing at a place convenient for the person served. If the person does not request a hearing, the court may order commitment on the application, medical certification, and any other evidence it may require. In all cases it shall certify in what place the mentally ill person resided at the time of his commitment; or, if the commitment is ordered by a court under section one hundred or one hundred and one, the court shall certify in what place the mentally ill person resided or was at the time of the arrest upon the charge for which he was held to answer before such court. Such certificate shall, for the purposes of section fifty, be conclusive evidence of the residence of the person committed. In any commitment under sections ninety-nine through one hundred and five, inclusive, where the person is before the court in connection with a criminal matter, the court may commit the person to a mental institution in accordance with the provisions of said sections and this section, but no additional hearing as established by this section need be held in addition to the hearings provided in sections ninety-nine through one hundred and five.

1834, 150, § 3.
R.S. 48, §§ 6, 7.
1855, 464.
G.S. 73, §§ 8, 9.
1862, 223, §§ 3, 4.
1879, 195, § 2.
1880, 250, § 6.
P.S. 87, §§ 12, 14.
1886, 319, § 1.
1892, 53.
1894, 195.
1895, 429.
1898, 433, § 28; 438, § 2.
1900, 350.
R.L. 87, § 34.
1908, 613.
1909, 504, §§ 30, 107.
1922, 410, § 8.
1925, 293, § 6.
11 Gray, 107.
111 Mass. 308.
160 Mass. 387.
1950, 654, § 6.
1955, 627, § 8.
1956, 589, § 2.

EXAMINATIONS OF PERSONS COMING BEFORE COURTS

SECTION 99. **Mental condition of persons coming before courts, how determined. Expenses.** In order to determine the mental condition of any person coming before any court of the commonwealth, the presiding judge may, in his discretion, request the department to assign a member of the medical staff of a state hospital to make such examinations as he may deem necessary. No fee shall be paid for such examination, but the examining physician may be reimbursed for his reasonable traveling expenses. 1918, 153

SECTION 100. **Commitment to state hospitals of persons under indictment.** If a person under complaint or indictment for any crime, or a child between seven and seventeen years of age complained of as a delinquent or wayward child, is, at the time appointed for trial, hearing or sentence, or at any time prior thereto, found by the court to be mentally ill or in such mental condition that his commitment to a state hospital is necessary for his proper care or observation pending determination as to any mental illness, the court may commit him to a state hospital or to the Bridgewater state hospital under such limitations, subject to the provisions of section one hundred and five as it may order. The court may in its discretion employ one or more experts in mental illness, or other physicians qualified as provided in section fifty-three, to examine the person or child complained of as a delinquent or wayward child and all reasonable expenses incurred shall be audited and paid as in the case of other court expenses. A copy of the complaint or indictment and of the medical certificates attested to by the clerk shall be delivered with such person or childin accordance with section fifty-three. If reconveyed to jail or custody under section one hundred and five, he shall be held in accordance with the terms of the process by which he was originally committed or confined.