

February 20, 1928

Doctor Howard W. Potter  
Clinical Director  
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Dear Doctor Potter: (Thru the Director)

I have received your letter and agree with the standard you have set for the admission of immigrants as an ideal that should be strived for in future legislation but my experience with the problem convinces me that it can not be achieved in practice under existing law. For us to attempt to exclude all persons who fall below the average in native mental endowment would be the assumption of legislative functions by an executive branch of the government; in other words, we would be attempting to do what Congress refused to authorize and we would not be upheld in it by higher executive branches of the government or by the courts.

I do not have the figures before me but on the basis of the army draft results, the exclusion of persons with a mental age of 12 or less would, I think, reach at least 20 per cent of all immigrants. The percentage excluded would be higher because of a certain proportion of normal relatives who would stay out with those declared to be below the normal standard. We have trouble now excluding for mental deficiency from one-half of 1 per cent to 2½ per cent of those who apply in different countries. For doing this we have been criticized both within and without Congress, so the time is not opportune for excluding anyone who can not be brought within one of the classifications embraced by the law.

Perhaps I did not make myself clear before. The motor minded are not desirable but unless the defect these people have<sup>as shown by</sup> failure to conform to social standards or inability to do tests that measure their educability<sup>is such as to brand them mentally defective</sup> under the generally accepted meaning of this term we can not legally exclude them. It is, however, desirable to pick out those motor minded persons who are actually defective--that is, those who are apparently normal by some performance tests but who have a serious fundamental defect that can be demonstrated by other tests-- and I am glad to know that you have found four performance tests that apparently do this.

I am quoting the section of the immigration law under which defective and diseased persons are excluded:

"Sec.3. That the following classes of aliens shall be excluded from admission into the United States: All idiots, imbeciles, feeble-minded persons, epileptics, insane persons, persons who have had one or more attacks of insanity at any time previously, persons of constitutional psychopathic inferiority, persons with chronic alcoholism; paupers, professional beggars, vagrants, persons afflicted with tuberculosis in any form or with a loathsome or dangerous contagious disease, persons not comprehended within any of the foregoing excluded classes who are found to be and are certified by the examining surgeon as being mentally or physically defective, such physical defect being of a nature which may affect the ability of such alien to earn a living."

You will observe that after all defects known to the medical profession are included, the law still mentions mentally defective persons. Just what useful purpose the words mentally defective serve here is not clear in view of the fact that idiocy, imbecility, and feeble-mindedness are already mentioned. The legislators evidently did not intend to exclude an intellectually defective class not already classed by physicians as mentally defective. The inclusion of the words mentally defective does, however, seem to give a loophole whereby the exclusion of higher types than the feeble-minded may be justified. I have taught our officers that doubtful, border-line cases examined abroad may justly be certified as mentally defective, but cases known not to be feeble-minded should be passed.

I would like to know whether you think that based on accepted usage of the words mentally defective, persons not feeble-minded could be certified as mentally defective under the clause of the law which reads as follows:

"\*\*\*\*persons not comprehended within any of the foregoing excluded classes who are found to be and are certified by the examining surgeon as being mentally or physically defective.\*\*\*\*"

The law, of course, intends to be definite. If the lid is pulled off feeble-mindedness, where would it be put so it would stay down? We have had experience to indicate that in practical application, at least, many psychiatrists would put it much lower than it is. The opinion of some of these psychiatrists on the diagnosis of feeble-mindedness is, of course, of little scientific value because they have had practically no experience with the defective but their reputation as mental experts carries over into the field of mental deficiency and has weight in certain quarters.

As to the officers who are coming up to you for instruction, your own idea as to what and how they should be taught is, I am sure, better than any I could give. The purpose is to prepare them to diagnose the mentally defective whose defect is not obvious to any intelligent person. It is, of course, desirable for them to see enough of the various lower types so that they can differentiate between cretins, mongolians, paralytics, etc., but as you have pointed out before the higher types are more important.

The officers will come on the 23d or 24th of this month. Each of them has read Treadgold's book in part and each has a personal copy of Terman's Measurement of the Intelligence. One has given the Terman test to a few normal children and has worked also at Ellis Island. I have an idea that as a basic bit of information all of them should learn how to give the Terman test and find by practical experience what the higher types of defects do with it. I hope they learn how to measure the mental age and intelligence quotient by two or three other methods that may be more practical for the work they are expected to do later on--but I leave all of this to you.

I recommended a month for the officers who are coming to you at this time. I set a month partly because we do not wish to impose any more than necessary on the generosity of Doctor Little and yourself, but I would like to know what you think of this time limit so that we can change it for officers sent later on or even for some of these if it seems desirable.

I would like to know where to buy the Ferguson form boards. Steeltung does not list them in his catalogue.

Sincerely yours,

lk-mgl

Lawrence Kolb,  
Surgeon.

Respectfully forwarded:

R.E. Dyer,  
Acting Director.