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Steps that Have Been Taken

A Survey of Past Activities Looking Toward Provision for Free Legal Aid

About free legal aid, almost twenty years ago the American Bar Association Reports made this comment:

“Organized legal aid work began in the year 1876. The American Bar Association was formed in the year 1878. These two agencies have always shared a common interest in striving to make more perfect our administration of justice. Yet for over forty years they have existed side by side without contact, without mutual recognition and without joining hands. Legal aid work came to the official attention of the Association only last year, when the matter was discussed. Your committee has felt that the greatest service it could render would be not only to make this contact, but also to establish a definite relationship by bringing legal aid work within the number of activities fostered by the American Bar Association.”

In this background recommendation was made that the American Bar Association create a standing committee on free legal aid, assigning the following reasons:

“1. There is a direct responsibility, both civic and professional, on members of the Bar to see to it that no person with a righteous cause is unable to have his day in court because of his inability to pay for the services of counsel.

“2. This responsibility is best met by members of the Bar acting, not as individuals, but in their collective capacity and through their recognized associations.

“3. Legal aid and advice to poor persons are most efficiently and economically secured, at least in the larger cities, through the existing agencies specially created and adapted for this purpose, called legal aid organizations.

“4. There should be, therefore, a direct relationship between the American Bar Association and legal aid work in its national aspects and as a national movement.

“5. This relationship is of a permanent and continuing nature, and should be recognized as such by the creation of a standing or annual committee, which should each year report to the Association as to progress, the needs, the advantages and the shortcomings of legal aid work in the United States.”

At the present time the by-laws of the American Bar Association (Art. X., sec. 13) contain the following provisions:

“Committee on Legal Aid Work.—It shall be the duty of the Committee on Legal Aid Work (1) to main-

tain a continuing study of the administration of justice as it affects the poorer citizens and immigrants throughout the country, (2) to promote remedial measures intended to assist poor persons in the protection of their legal rights, (3) to encourage the establishment and efficient maintenance of legal aid organizations, and (4) to cooperate with other agencies, both public and private, interested in these objects."

The latest published report (A. B. A. Vol. 62, 1937) of the standing committee on legal aid work of the American Bar Association contains the following:

"Since 1921, the American Bar Association has had a standing Committee on Legal Aid Work in accordance with its Constitution. The Association has, in the most emphatic way it could, emphasized the fact that the well-being and development of legal aid work is one of its major continuing professional responsibilities. Many state and local bar associations have appointed legal aid committees to work to the same end.

"The end we seek is to make fully effective the Fourteenth Amendment to the Constitution of the United States which declares that all men shall receive the equal protection of the laws. This declaration, so far as solemn words can do so, brought to fruition in America the early promise of Magna Carta which, adopted in 1215, said in its fortieth paragraph:

"'To no one will we sell, to no one will we refuse or delay, right or justice.'

"These same words, after the American Revolution, were incorporated into the constitutions of our newly formed states and commonwealths; and, to use the wording of Article XI of the Bill of Rights of the Constitution of the Commonwealth of Massachusetts, the ideal was thus expressed:

"'Every subject of the Commonwealth ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which he may receive in his person, property, or character. He ought to obtain right and justice freely, and without being obliged to purchase it; completely, and without any denial; promptly, and without delay; conformably to the laws.'

"Legal aid work with its more than 60 years of practical experience has already attained majestic proportions. There are more than 80 well-organized legal aid offices throughout the country which, every year care for more than 300,000 applicants for legal advice and assistance. The great majority of these offices are united together for the advancement of the work in their National Association of Legal Aid Organizations. Since formation their Honorary President has always been the Chief Justice of the Supreme Court of the United States; first Mr. Chief Justice Taft, now Mr. Chief Justice

Hughes, who was himself President of the Legal Aid Society of New York for many years while he was in private practice and who was the first chairman of the American Bar Association's Legal Aid Committee.

"While the legal aid organizations have accomplished much, and the several bar associations have contributed much, the ultimate goal is still far short of realization.

"The ultimate goal is this: Every man, woman and child in the United States shall receive protection in every legal right and redress for every legal wrong. No man, woman, or child in the United States shall be denied his day in court because of poverty nor shall he be unable to obtain competent legal advice and assistance, even if he is unable to pay for it.

"For the better attainment of this goal the Committee on Legal Aid Work of the American Bar Association has resolved to ask the state bar associations to make themselves the responsible agents.

"At the present time the overwhelming majority of the state bar associations have definitely expressed their interest in legal aid work. State and local bar associations, and individual law firms and lawyers, have contributed hundreds of thousands of dollars to the advancement of the work. But this is not enough.

"Our proposal now is that every state bar association shall say more than that it is interested in legal aid work and will contribute to it.

"We propose that every state bar association shall make itself responsible for the proper extension of legal aid work in its own jurisdiction.

"We propose that every state bar association shall, by clear statement in the purpose clauses of its own constitution, declare that it is responsible to see to it that every person within its borders who needs legal advice and assistance and who, because of poverty, cannot obtain it elsewhere, shall receive it from the state bar association through agencies set up by it."

Respecting the organization of free legal aid in the State of Washington, in a recent article published in the "Journal of the American Judicature Society," Charles Evans Hughes, Jr., said:

"There are still many large and important cities where there is no such agency at all. *Seattle*, *Toledo*, *Birmingham*, *Richmond* and *Syracuse* are glaring examples of large cities where none exist."

While the author was referring to legal aid societies, and hence, strictly speaking, was accurate, his statement might give an erroneous impression if understood to indicate that in this locality no attention had been directed to the necessity of free legal aid organization. The truth is that in the State of Washington some earnest efforts by bar committees have been made to or-

ganize and furnish free legal aid, however, with only that measure of success to be expected from initial attacks upon inertia.

Apparently the first recognition of the necessity of organization in free legal aid by the Washington State Bar Association came just before its statutory integration, when a special committee was appointed in February, 1933, to cooperate with the State Relief Commission. The membership of this committee included one attorney from each of the eight largest cities of the state.

As a result of the activities of this special committee, in December, 1933, the Board of Governors of the Washington State Bar Association adopted a resolution, reading in part as follows:

“Whereas there is at the present time great need of legal advice and service to the poor and needy in this state, who have urgent legal problems and who are without funds to pay for the same; and whereas the State Relief Administration is desirous of having the state bar, in cooperation with relief organizations, take charge of organizing and administering free legal aid throughout the state; and whereas the members of the bar generally are willing to donate their services in giving such legal aid, and by organizing the work various relief and welfare organizations can be greatly helped in properly carrying on their work;

“Now, therefore, in order to properly organize such free legal aid, it is resolved by the Board of Governors of the Washington State Bar Association:

“(1) That a standing committee of the state bar be now appointed to be known as the Legal Aid Committee * * * such state committee to prepare a plan for rendering such free legal aid, and to have general supervision of the work throughout the state;

“(2) That such committee is hereby directed and empowered to form local committees in the various communities throughout the state, such local committees, under the supervision of the state committee, to administer free legal aid to the poor and needy of the respective communities, in cooperation with the State Relief Association and the particular County Welfare Board.”

Upon the authority of this resolution, by the first President of the integrated bar, a standing committee was nominated consisting of one lawyer from each of the eleven largest cities of the state.

Promptly after appointment, this committee set up an organization designed to function over the entire state. And for the period of more than two years, through the efforts and under the supervision of this committee, free legal aid was more or less effectively supplied in intimate cooperation with the local representatives of the Emergency Relief Administration.

However, experience inclined some of the committeemen, as well as some of the members of the Board of Governors, to the

opinion that the actual administration of free legal aid was largely a local problem, calling for diversification in local organization to conduct the work. As a result, about three years following creation of the Free Legal Aid standing committee, upon the resignation of its Chairman, the Board of Governors refrained from filling the vacancy, then being of the opinion that the responsibility for free legal aid should be borne by the local bar associations throughout the state.

While some local bar associations, sensitive to the demand for legal aid, created or maintained committees in the field either studying the problem or attempting to meet the demand, it soon became apparent that without the stimulus of the committee of the State Bar Association progress was not being made, in consequence of which in some localities representatives of the Department of Social Security and of private charity organizations were frustrated in their desires to obtain prompt and efficient assistance of the profession for needy persons with legal difficulties. Hence, within the current year there has been an active revival of effort to organize legal aid work.

The renewed interest in the subject is evidenced by:

(1) The action of the Board of Governors in November, 1937, resulting in the appointment of three of its own membership, Mr. Joseph A. Barto, of Seattle, Mr. Philip S. Brooke, of Spokane, and Mr. Hugo Metzler, of Tacoma, as a committee to study the problem and make recommendations of policy to the Board as a whole;

(2) The appointment by the Department of Social Security of an attorney to make a survey of conditions respecting free legal aid throughout the state;

(3) The constructive report of the Legal Aid Committee of the Seattle Bar Association, headed by Mr. Arthur E. Simon, recommending the establishment of a legal aid clinic, which report was approved by the membership of the Seattle Bar Association, except only the recommendation that the same be financed by funds supplied by the State Department of Public Security.

The history of the attempt to organize legal aid work in the State of Washington possibly justifies quotation from the Committee's previous report to the Washington State Bar Association (1933-1934), which observed:

"Intimacy with the initiation of a constructive free legal aid program emphasizes its educational necessities. Lawyers, possibly by natural temperament and certainly by mental grooming, are conservative, individualistic and critical. They promote organization for their clients and resist organization for themselves. At the same time, more than most classes of laymen, the Bar is sensitive to ethical refinements, aware of civic obligation, and sympathetic with personal distress.

"Applied to the introduction of free legal aid, this combination of virtues results in a difficult problem of slow self-education.

"In past normal times the individual attorney has frequently made a generous professional gesture of reduced fee or complete charity. In present subnormal days, he feels most of his thought is painstakingly donated to serving somebody else who is financially sick. Hence his first reaction to the idea of free legal aid is that organization is superfluous. He inaccurately measures the needs of unseen indigents still unsatisfied, by the demands of personal clients satisfied by his generosity in routine practice.

"And because he has been born and trained as a free lance thinker and fighter, he is inclined to resent working in the harness of organization. He overlooks that organization, when perfected, will not be designed to limit his own opportunity for individual charity, but merely to distribute fairly the burden of free service; he fails to appreciate that organization, when properly functioning, will largely relieve him of preliminary investigation to determine the applicant's inability to pay a fee, will tend to eliminate repeaters and imposters, and will help to uncover truly worthy persons with meritorious difficulties, entitled to gratuitous help."

Serious thinking from a long perspective on the subject should convince members of the profession that under present-day social conditions the problem of free legal aid, its organization and administration, is one deserving the best of planning and effort for the benefit of the needy poor and for the protection of the bar itself in its relation to the public.

For the information of those possibly of the opinion that there is no need for organized free legal work, in answer to a recent questionnaire, returns from Social Security administrators disclose that in their opinion in twenty-three counties there is a definite demand for organization in professional charity.

With this in mind, it is hoped that at the next annual meeting of the Washington State Bar Association at Mount Rainier on the morning of July 30th, when free legal aid will appear on the program for discussion, many will be in attendance to contribute their ideas to some constructive program, which will result in the permanent organization and the effective administration of free legal aid.

LANE SUMMERS of the Seattle Bar

American Bar Convention

Washington lawyers planning on going East the latter part of July are urged to attend the Convention of the American Bar Association, July 25-29, in Cleveland, Ohio. Preceding the Convention an Institute will be held on the New Federal Rules, July 21-23.