Modification of contracts by the original parties thereto is a common occurrence in every branch of the law. It would be indeed strange to deny it to the contractual relationship between landowner and servitude owner. Articles 748 and 752 of the Code clearly contemplate adjustments by the original contracting parties. The following brief statement from the highest court of the state should brave logical contradiction in law and equity and give heart particularly to the landowner. "[T]here is no law prohibiting the landowner and the mineral owner from entering into a contract with each other, as was done by and between these litigants, whereby a division or a reduction of the servitude results."[37]

Legal Aid

ITS CONCEPT, ORGANIZATION AND IMPORTANCE

*John S. Bradway**

Legal aid work[1] essentially is a state of the individual lay mind, an individual professional point of view, and the answer of the organized bar to a public demand for a means for implementing some of the basic legal principles undergirding the American way of life. This activity is carried on generally in a material framework of law office, bricks, mortar, desks, filing cabinets, and books. But at the center of the concept there are always a client asking help and a lawyer giving it. Functionally

37. 69 So.2d 734, 735 (La. 1954).

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1. Elihu Root, writing in 1919 the Foreword to Reginald Heber Smith, *Justice and the Poor*, CARNEGIE FOUNDATION FOR THE ADVANCEMENT OF TEACHING, Bull. No. 13, p. ix (1919), saves us the trouble of a long series of references by summarizing the circumstances which in this country brought the need for legal aid to public attention. He says: "We have had in the main just laws and honest courts to which people—poor as well as rich—could repair to obtain justice. But the rapid growth of great cities, the enormous masses of immigrants (many of them ignorant of our own language), and the greatly increased complications of life have created conditions under which the provisions for obtaining justice which were formerly sufficient are sufficient no longer."

Vance, *The Historical Background of the Legal Aid Movement*, 124 ANNALS 6 (1926), makes clear that the need was one continuing through the development of Western Civilization.

there is a meeting of their minds, an exchange of ideas, the transfer of a professional commodity.

If we think about this concept with comprehension of normal human motivation, we have some reason to feel surprise that this legal aid client is present. What distinguishes him from all other classes of clients is his economic condition.[2] He is the man who cannot afford to pay a lawyer a fee for the services to be rendered. What makes his presence surprising is his lack of knowledge and his timidity. He often does not realize that he has a problem, a solution to which may be found in the field of law. He may not know that lawyers are ready and willing to give a reasonable amount of free service. He may not know any particular lawyer to whom to present his problem. He probably is a sincere, troubled and bewildered sort of person who feels no little embarrassment at the thought of receiving something for nothing; of sitting in a lawyer's waiting room alongside those who do pay fees. His presence tells us that he has found a way to overcome some or all of these obstacles. His state of mind is a significant factor in our topic.

Some people seem to assume that the term "legal aid client" is synonymous with "dead beat," "pan handler," the man who makes a profession of getting something for nothing, something for which he should pay. He is imagined to be one who seeks to gain his objective by misrepresenting his economic condition. There is no particular value in attempting to deal with this misconception by argument. The best answer is for any interested person to spend a few hours as a spectator in the office of a busy legal aid society. There he will be able both to see for himself and to draw his own first hand conclusions. A similar lay misunderstanding obscures from some clients the humanitarian impulses of the lawyer. Too many people jump to the assumption that no applicant will be received in a lawyer's office unless and until he has money in his hand to pay a fee or at least a sizable retainer. Here again is a matter in which argument is of little value *per se*. The best answer is for any interested lay person to consult a lawyer and find out for himself. In fact clients would find it a good habit to see their lawyers twice a year.

2. The determination of the size of the economic class which legitimately requires legal aid has been a matter of extensive speculation. As long as we oversimplify the matter and assume that the line is to be drawn in terms of a specific factor we may apply to such sources as the number of unemployed, or the number of persons on public relief rolls. But the problem is complex. A young unencumbered man earning $25 a week may be able to pay a fee. A widow with three children earning the same amount may deserve legal aid.

Legal aid work is not only the client's state of mind. It is also a professional point of view. The statutes in the various jurisdictions which define the phrase "practice of law" award to the members of the bar what amounts to a monopoly.[3] The privileges of this monopoly, of course, are fully balanced by the obligations. One of these obligations, recognizing that laws and principles of justice do not implement themselves, devolves upon the members of the bar a large portion of the duty to see that justice according to law is actually administered to each of our fellow citizens, if, when and as he needs it.

The federal[4] and state constitutions,[5] in various wordings, promise the public "the equal protection of the law." *Inter alia* this promise seems to require that in a republic the quality of justice a man receives should depend upon the merits of his cause rather than upon the amount of money he happens to have in his pocket. If the client can pay a fee commensurate with the quality and quantity of services rendered by the lawyer the transaction presents few complications of present concern. If, on the other hand, the client can pay only a token fee, or none at all, the professional obligation on the lawyer to serve him would appear to be every bit as great as it is to assist his more fortunate neighbor.

Legal aid work is evidence of the lawyer's recognition of that professional obligation not only to the individual client but to the general public. Sometimes it is assumed individually. At other times it is a matter for joint action through the bar association. In still other places the service is performed in a sense vicariously through a legal aid society staffed by lawyers and supported financially by the public—a system somewhat analogous to the organization of the free clinics operated by our sister profession—medicine. To a lawyer legal aid work is a part of the overall public relations program of the organized bar. In some respects it is the most effective part of that program. It does not limit itself to promulgating a statement of general principles. It is a realistic humanitarian implementation. It comes home individually to every man's fireside.

3. LA. R.S. § 37:212 (1950) defines "Practice of Law"; LA. R.S. § 37:213 (1950) imposes penalties for unauthorized practice.

A collection of such statutes may be found in HICKS & KATZ, UNAUTHORIZED PRACTICE OF LAW, A HANDBOOK FOR LAWYERS AND LAYMEN, AMERICAN BAR ASS'N (1934).

4. U.S. CONST. AMEND. XIV provides in part: ". . . nor shall any state . . . deny to any person within its jurisdiction the equal protection of the laws."

5. Provisions of somewhat comparable significance are found in the "Bills of Rights" of state constitutions. For example, LA. CONST. Art. I, § 6.

Legal aid work finally is an answer of the organized bar to a demand from the general public. The public, not unreasonably, requires that the legal principles implicit in what we call the American way of life should function realistically. The legal aid movement is a front line trench in the present global cold war. The prize in that war is the enthusiastic approval of reasonable men. What we say about the American system may win our side converts. What we are able to demonstrate as to its relative effectiveness in comparison with the performance of foreign ideologies speaks louder than words. In the light of this challenge we may understand the zeal of those who man the legal aid front line trenches. We may also wonder whether there might not be more replacements.

The Development of the Legal Aid Concept

The need of the low income client for legal aid is not new.

We are told that in an early stage of the development of law in a comparatively primitive world it was customary not to allow the individual litigant a lawyer.[6] The right to be represented by counsel is an improvement rather than a basic concept in Anglo-American procedure. Even today the right to appear *in propria persona* survives, though now it seems necessary to save it from extinction.[7]

Lawyers did not spring full blown into the judicial arena.[8] They were called into being little by little as the needs of clients in a society gradually acquiring civilization also became more complex. Only specialized services could meet the need. Lawyers have had to win the good opinion of the public. This condition may continue.

The first indication of what is now the bar seems to have

6. The concept has found expression at the hands of many authorities. Pollock and Maitland express it in these words: "The old procedure required of a litigant that he should appear before the court in his own person and conduct his own cause in his own words." POLLOCK & MAITLAND, HISTORY OF ENGLISH LAW 211 (2d ed. 1899). To the same general effect, see COHEN, HISTORY OF THE ENGLISH BAR 5 (1929).

7. We refer here again to the language of the Unauthorized Practice Statutes. For example, North Carolina states it as follows: "The phrase 'practice law' as used in this chapter is defined to be performing any legal service *for any other person, firm or corporation. . . .*" (Italics supplied.) N.C. GEN. STAT. § 84-2.1 (1950).

8. In general one may get a picture of this development by reference to WIGMORE, A PANORAMA OF THE WORLD'S LEGAL SYSTEMS (1928). More specifically, one may consult authorities on the first century of colonization of the North American Continent: ADAMS, PROVINCIAL SOCIETY, 1690-1763, 14 (1927); 1 OSGOOD, THE AMERICAN COLONIES IN THE EIGHTEENTH CENTURY 204-08 (1924); WARREN, HISTORY OF THE AMERICAN BAR 3 ("Law Without Lawyers") (1912).

been the "helper."[9] He may have been a person who possessed political power rather than legel competence. His relation to his client was perhaps entirely one of status—a family status, a feudal status.[10]

Next he develops as more of a specialist in legal matters. He writes speeches.[11] He delivers orations.[12] He gives legal advice. In Rome his relation to his client is still one largely of status but perhaps what we may describe as political status to distinguish it from the earlier ties which were of a more personal character.[13]

In the Middle Ages the lawyer has become a member of a class.[14] He is generally an ecclesiastic and his relation with his client is still another sort of status—one with spiritual sanctions.[15]

In England the lawyer—at least the barrister—develops from a class to a profession.[16] The Inns of Court enjoy self-government.[17] The relation to clients is still a different sort of status—one we may describe as professional.[18]

9. CARR-SAUNDERS, THE PROFESSIONS 30 (1933); FORSYTH, HISTORY OF LAWYERS, ANCIENT AND MODERN 20 *et seq.* (1875).

10. PLUCKNETT, A CONCISE HISTORY OF THE COMMON LAW (4th ed. 1948), discusses the *patrocinium* in Germanic legal tradition at p. 480; at p. 477 he describes "Feudalism: Lord and Man." See also FORSYTH, HISTORY OF LAWYERS, ANCIENT AND MODERN 85 (1875).

11. BONNER, LAWYERS AND LITIGANTS IN ANCIENT ATHENS 200-43 (1927); POUND, THE LAWYER FROM ANTIQUITY TO MODERN TIMES 28 (1953); 1 WIGMORE, PANORAMA OF THE WORLD'S LEGAL SYSTEMS 324 (1928).

12. HASKELL, THIS WAS CICERO (1942); WILKIN, ETERNAL LAWYER (1947).

13. TAFT, ETHICS IN SERVICE 6 (1915).

14. FORSYTH, HISTORY OF LAWYERS, ANCIENT AND MODERN 191 (1875). The French bar at this time seems to have ranked as an order of knighthood—*noblesse de la robe.*

15. See in particular the lives of St. Yves (the patron saint of lawyers) in 5 BARING-GOULD, THE LIVES OF THE SAINTS 301 (rev. ed. 1914) and of St. Thomas More in 2 CAMPBELL, LIVES OF THE LORD CHANCELLORS 37 (1885).

16. The OXFORD ENGLISH DICTIONARY (1909) defines the word "III(g) The occupation which one professes to be skilled in and to follow, a. A vocation in which a professed knowledge of some department of learning or science is used in its application to the affairs of others or in the practice of an art founded upon it. Applied spec. to the three learned professions of divinity, law and medicine, also to the military profession."

WEBSTER'S NEW INTERNATIONAL DICTIONARY (2d ed. 1949): "4a. The occupation, if not purely commercial, mechanical, agricultural, or the like, to which one devotes onesself; a calling in which one professes to have acquired some special knowledge used by way either of instructing, guiding, or advising others or of serving them in some art; as the *profession* of arms, of teaching, of chemist. *The three professions,* or *learned professions,* is a name often used for the professions of theology, law and medicine."

See also *Professions,* 12 ENCYC. SOC. SCI. 476 (1934), from which it appears that the name emerged in 1541.

17. Pound, *The Legal Profession in the Middle Ages,* 19 NOTRE DAME LAW. 229 (1943); and Pound, *The Legal Profession in England from the End of the Middle Ages to the Nineteenth Century,* 19 NOTRE DAME LAW. 315 (1944).

18. John H. Wigmore in the Introduction to CARTER, ETHICS OF THE LEGAL

During all this period there is a gradual development of a fee system. In the beginning it appears that no fee was given or received. The status relation suggests a mutuality of obligation of a sort of services in kind. Later there might be presents. As the pendulum seems to swing from status toward contract we see statutes attempting unsuccessfully to limit fees.[19] Today few are found to argue against the practice of charging fees. But we remember that along with the rise of the fee system there exists the traditional practice of lawyers rendering many services to many persons with no thought of a fee. The justification for this professional service varied from time to time. We may imagine the Roman lawyer reasoning that he was upholding the dignity of the state. The medieval lawyer probably served his clients for the glory of God. The English barrister appears to have been motivated by the reasonable demands of his professional brethren.

The American lawyer is the proud heir of all these traditions. They constrain and at the same time uphold him. He finds use for a fee honestly earned. He is also ready and willing to render legal aid. This willingness is one of the criteria by which we are able to claim that the bar has matured to the point at which it deserves the title—profession.[20]

Legal Aid Work in the United States

It is a reasonable assumption that more or less legal aid work in some form has been performed in every law office in the United States from the beginning. Therefore it is desirable that we explain why today something more is required. There are two major reasons. In the larger cities the volume of demand is now recognized as so great as to overwhelm any single law office, however willing, which tried to meet it. This is in no

PROFESSION xxi (1915), says: "And so, as a profession, the law must be thought of as ignoring commercial standards of success,—as possessing special duties to serve the state's justice,—and as an applied science requiring scientific training." See also Pound, *What Is a Profession?*, 19 NOTRE DAME LAW. 203, 204 (1944).

19. Efforts to deal with the problem of fees are of long standing: 2 BONNER & SMITH, THE ADMINISTRATION OF JUSTICE FROM HOMER TO ARISTOTLE 11 (1938); FORSYTH, HISTORY OF LAWYERS, ANCIENT AND MODERN 352 (1875); POUND, THE LAWYER FROM ANTIQUITY TO MODERN TIMES 136 (1953) says: "Legislation hostile to the practice of law is continuous from substantially the middle of the seventeenth century to the middle of the eighteenth century." The details may be found in 4 MINOR, INSTITUTES OF COMMON AND STATUTE LAW 173 (1883).

20. Jessup, *The Ethics of the Legal Profession*, 101 ANNALS 18 (1922); MacIver, *The Social Significance of Professional Ethics*, 101 ANNALS 5 (1922); PATTERSON, MORAL STANDARDS, AN INTRODUCTION TO ETHICS 379 (1949); TAEUSCH, PROFESSIONAL AND BUSINESS ETHICS 13 (1926).

sense discreditable to the lawyer. We make no argument that a lawyer should be expected to give his entire time to free service. Such a contention would be quite unrealistic or perhaps socialistic. The second reason is that such legal aid work as is accomplished in private law offices is done, naturally and quite properly, without fanfare. Usually only two people know about it—the lawyer and the client. Therefore, when the organized bar endeavors, in our public relations programs, to point with pride there is nothing tangible to which to direct the attention of the public. If some minimum records were kept of the fact that these meetings took place we could at least inform the public that so many people in a given area applied for and received free aid during the year. But usually there are no records kept. Thus in many parts of the country we have no statistics to illustrate either the extent of the need nor whether it is being met. If a critic claims that we are not doing what we should, we have today all too little objective data with which to answer him. In the field of public health comprehensive and continuing statistics reveal not merely that the battle against polio, for example, is being fought, but whether it is being won. These considerations bring us to a brief comment on the development of what we may call organized legal aid.

Organized Legal Aid

The first legal aid organization of which we have record opened its doors in New York City in 1876.[21] The motivating factor was a recognized need for the service. Initially the demand, perhaps inarticulate, came from a group of immigrants. Only later was the service made available to all applicants who could not pay a fee. The basic concept may not have been American. Some early publications suggest that there were earlier efforts in this direction in Germany[22] and the Scandinavian countries.[23]

The first half century—roughly until about 1930 is a history almost exclusively of development in the larger urban centers.[24] The societies in several ways proved more effective administra-

21. Maguire has written the early history of the New York Legal Aid Society, THE LANCE OF JUSTICE (1928).

22. SECOND CONFERENCE OF LEGAL AID SOCIETIES OF THE UNITED STATES 7 (1912).

23. Legal Aid for the Poor (League of Nations Doc.) V. Legal 1927. V. 27, p. 117 (Iceland), 247 (Sweden); Cohn, *Legal Aid for the Poor*, 59 L.Q. REV. 250, 259 (1943).

24. Bigelow, *Epitome of Legal Aid History in the United States*, 124 ANNALS 20 (1926).

tive devices than the previous lack of system. Law offices readily surrendered many if not all of their individual activities on behalf of the legal aid clients and referred applicants to the new agency. There was no criticism of the private service; in fact, to a degree it was and is continued. But generally speaking every one realized that in a large city a specialized office for persons in the lower income groups was more conventient to everyone. It was a period in which there were pioneering, experimenting, overworked and underpaid enthusiasts grappling with floods of clients in makeshift quarters. There grew up a sort of tacit understanding that the immediate promotional goal was an organization in every city with a population of 100,000 and over.[25]

It was natural that a predominantly urban national movement should look for guidance to the first organizations set up in the larger cities. In general there were three types: the private corporation financed by its own efforts as in New York,[26] the bureau of a social agency as in Chicago,[27] and the Bar Association Bureau as in Detroit.[28] Several municipally sponsored legal aid bureaus opened and later closed. But the essential factors—the lay client unable to pay a fee, the professionally minded lawyer and the demand for a showing in the field of public relations were always present. Hundreds of thousands of persons have received this help in a single year.

The staffs are still overworked and underpaid. There is still an effort to secure more funds. The proponents generally realize that the generous public will contribute more readily to a non-controversial cause in which the object is a person suffering from a material injury—a child stricken with polio, a family with the home destroyed by fire, a community devastated by an earthquake. Legal aid by its very nature deals with a different sort of problem. It seeks to decide a controversy: a wife deserted by her husband, a laborer in search of unpaid wages; a tenant in conflict with his landlord over frozen water pipes, a man in jail charged with an offense against the state and the like. These problems are more complex. The person we are asked to help is not the only party in interest whose rights—legal or moral—call for attention. There is an adversary. The observer's attention

25. BROWNELL, LEGAL AID IN THE UNITED STATES 31 (1951).
26. TWEED, THE LEGAL AID SOCIETY NEW YORK CITY 1876-1951 (1954).
27. Gariepy, *The Legal Aid Bureau of the United Charities of Chicago*, 124 ANNALS 33 (1926).
28. Smith & Bradway, *Growth of Legal Aid Work in the United States*, Bull. No. 607, 135 (U.S. Bureau of Labor Statistics 1940).

may be diverted to the plight of the adversary or divided between the contenders. There may be much to be said on the other side. Whatever the reason the problem of financing legal aid in the metropolitan centers is likely to be with us for some time to come. It is to the credit of the staff members of these legal aid organizations that their enthusiasm for the work is not dependent upon the size of the pay checks. But even with these handicaps the movement is likely to continue and gather headway. The motivation is often the realization that irrespective of the possible clash of personalities involved here is a problem requiring someone's attention, a controversy to be solved. It is the unusual lawyer who fails to react creatively to the challenge of a continuing stream of examples of repeated injustice crying for a remedy or even better for prevention.

The Movement Outside the Metropolitan Areas

Since about 1930 there has been developing another phase of the organized legal aid movement.[29] Gradually it has dawned upon us that the poor client in the rural county who for some reason does not have the aid of a lawyer can suffer as much injustice in a given case and be just as much disturbed as can his neighbor in the city. It was also clear that the same sort of obstacles which keep the latter from applying to the metropolitan private law office operate more or less effectively to deter the country man's visit to the lawyer in the rural county seat. A new goal, organized service in every county in the United States, appropriate to local needs, gradually took shape. The question is what can we do about it.

The country lawyer is, of course, just as willing as anyone else to render free service. He is just as available as anyone. His prestige is just as dear to him as is reputation to the urban practitioner. But there is no justification for a brick and mortar program which would attempt to set up in the rural counties anything in the way of an organization resembling the New York Legal Aid Society. This agency serving upwards of 30,000 clients a year is one of the largest law offices in the world.

After much thought on the subject it seems to many of us that the problem of what we may by contrast call rural legal

29. This movement is not too well documented. The reader may find some interesting data in BRADWAY, THE WORK OF LEGAL AID COMMITTEES OF BAR ASSOCIATIONS, AMERICAN BAR ASS'N (1938). See also THE ANNUAL REPORTS OF THE LEGAL AID COMMITTEE OF THE PENNSYLVANIA BAR ASSOCIATION since 1923; Dwyer, *Developments in Legal Aid*, 22 TENN. L. REV. 490 (1952).

aid is not how to raise money but how to secure minimum records. In a sparsely settled county where less than 100 legal aid matters a year are likely to arise the actual service to clients is one which can often be handled on the traditional basis of the spare time of the professionally minded lawyer in his private office. But while this informal service is adequate as between client and lawyer it does not, without more, satisfy the interest of the inquiring public. Nor does it contribute to the public relations program of the organized bar.

People have some sort of right to know, and it is very much to the interest of the profession to keep them informed, whether the machinery for the administration of justice according to law is or is not functioning effectively. If we can find ways of interesting bar association committees and individual lawyers who are rendering this service in keeping minimum records, even if nothing more than the number of occasions when this service is rendered in a year and the types of situation confronting the applicants, we shall have something tangible to which in time of need we can point with pardonable pride.

Sponsors of the Promotional Program

Originally the promotion of organized legal aid work was largely a result of individual inspiration.[30] Somebody in Boston, in Philadelphia, in Pittsburgh, in Cleveland, in San Francisco was sufficiently concerned about the problem of the poor man in danger because of his poverty of being denied justice according to law to be willing to do something about it. "There were giants on the earth in those days." But most of the proponents just casually happened to be interested. This is an undesirable way to implement any movement as important as legal aid.

In time it was regarded as desirable that a more orderly and predictable promotional procedure be followed and in pursuance of this thought agencies estabished nationally and on statewide and local levels have undertaken sponsorship.

30. Leonard McGee, then attorney for the New York Legal Aid Society, speaking at the Fifth National Conference of Legal Aid Bureaus and Societies held in Philadelphia in March 1922 (PROCEEDINGS, p. 101) says: "Among the younger men, those in direct charge of the work, was an astonishingly strong group of attorneys. We were bound together by common ideas and by ties of personal friendship which extended across the continent. There were Ames of San Francisco, Bartholomew of Cleveland, Goldman of Cincinnati, Robey of Philadelphia, Begin of Minneapolis, Embree of New York, Smith of Boston, Wood of Los Angeles, Fleming of Kansas City and Calhoun of St. Louis."

Nationally three of these may be mentioned. One consisting originally of the staff members, the men and women in the front line trenches, has passed through three phases. The National Alliance of Legal Aid societies (1912-1921) functioned without money and, no doubt, was proud of that fact.[31] It served as a clearing house for the ideas prevalent prior to the first world war. The National Association of Legal Aid Organizations (1921-1944) had a limited budget.[32] It concerned itself with the problems of promotion and standards, and was pleased to demonstrate its resourcefulness. The National Legal Association (1944-) has more money, a membership wider than the front line trench people, and is placing greater emphasis on promotion.

The American Bar Association became officially acquainted with legal aid work in 1920.[33] At that time it recognized the movement as a part of the administration of justice and therefore a continuing responsibility of the legal profession. Its Standing Committee on Legal Aid Work has made annual reports. Also on the national level we may mention the American Bar Association Committee on War Work which during World Wars I and II rendered distinguished service in connection with state bar committees to the service men and their dependents.[34]

Those who have contributed to the promotion of organized legal aid work on the national level have given the movement primarily the quality factors of respectability, standards, a broad objective. Through their sponsorship the movement is recognized as the humanitarian plank in the public relations program of the organized bar.

On the state level also, excellent progress has been made but with one definite change. The county and not the metropolitan

31. This organization held five meetings: Pittsburgh in 1911, New York in 1912, Chicago in 1914, Cincinnati in 1916, and Philadelphia in 1922.

32. This organization dealt with such problems as what statistics should be kept; what should be the relationship between a legal aid organization and problems of the organized bar, organized social work, legal education, the criminal courts, workmen's compensation boards and the like. The bulk of materials relating to this phase of legal aid work are collected in the Law Library of Duke University.

33. The Association heard papers by Reginald Heber Smith, Charles Evans Hughes, Ernest L. Tustin, Ben B. Lindsey, 45 A.B.A. REP. 217-58 (1920). The special committee submitted its report in 1921, and in that year (PROCEEDINGS, p. 51) the constitution was amended to add this to the list of standing committees.

34. This committee continues its operations in peacetime. Its most recent report appears in the Advance Program of the American Bar Association 76 (August 1953). See also BLAKE, LEGAL ASSISTANCE FOR SERVICEMEN. A REPORT FOR THE SURVEY OF THE LEGAL PROFESSION (1951). A report for the survey of the legal profession shows the nature and extent of their service.

area is the basic unit. A few state legal aid associations were established and held meetings but do not seem to have survived. Generally the agency which gave the most impetus to the enterprise has been the state bar association.[35] It followed the lead of the American Bar Association creating a legal aid committee, giving respectability to the movement, in turn encouraging county development.

But with all their interest and enthusiasm these national and state programs have carried us only part of the way toward our overall goal. Many counties in the United States still have no organized service, no records. The reasons for this hiatus are varied—perhaps a "sales resistance" based upon local pride and a reluctance in accepting projects not locally sponsored, the impression which obtains in some places that a movement for organization is implicitly an unfavorable reflection on the idealism of the local bar, the non sequitur that there cannot be a local legal aid problem because legal aid clients do not frequent the willing local law offices. In time these misapprehensions no doubt will be removed. At present they are only too real to too many people.

The most promising means of making progress on the local level seems to be through the law school. Legal aid clinics are now being introduced in a number of law schools where they serve many purposes.[36] While the name "legal aid clinic" covers a wide variety of educational discipline, the general objective may be described loosely in terms of giving the law student the same sort of training which the medical clinics give the internes. From the legal aid promotional standpoint they offer the student the chance to acquire a realistic sense of professional responsibility. They introduce him to a challenging professional activity at a time when his idealism is at full tide, when he is seeking a vehicle for its continuing implementation. With the knowledge and enthusiasm acquired by participation under supervision in a legal aid clinic serving clients for no fee he graduates, is admitted and hangs out his shingle in a local county. He becomes then a legitimate successor to the privileges and opportunities which confronted the original legal aid pioneers. He can be a "giant" in his own right. He has a chance to feel, as they did, the drama of a new venture, the pride in making clear the value of profes-

35. See BRADWAY, THE WORK OF LEGAL AID COMMITTEES OF BAR ASSOCIATIONS, AMERICAN BAR ASS'N (1938).

36. Johnstone, *Law School Legal Aid Clinics*, 3 J. LEGAL EDUC. 535 (1951).

sional services of the lawyer to client, to profession and to public. With the development of the legal aid clinic idea we may expect in due course every county, no matter how sparsely settled, to have a device at least for this sort of record keeping. If it is more populous it will in time set up and operate an agency devoted to this form of professional service to the public. The hope is that the law schools will continue to supply pioneers and replacements for this program which means so much to everyone.

The Urgency of the Situation

The problem of legal aid promotion is by no means academic. One of the major situations confronting the organized bar today is the threat of socialized law. We see steps toward socialized medicine and law in Great Britain.[37] We are aware of a program of socialized medicine proposed in this country.[38] The next step may well be socialized law.[39] It is not difficult, looking ahead, to imagine what might happen here nor the manner in which proponents may endeavor to bring it about.

Most lawyers probably are conservative in thinking on the professional level. We believe the present system for administering justice according to law while perhaps not one hundred per cent perfect is nevertheless to be preferred over these foreign ideas. But our position is not one in which we can afford complacent smugness. Socialized law may never come. But if it should come and find us unready and unprepared we shall have only ourselves to thank for what happens.

We shall probably have to meet the possibility of socialized law not by words alone but by a realistic preventive and remedial program. The nature of that preventive program is not too vague. If we work out a system whereby everybody irrespective of the social or economic class to which it belongs actually does get the same quality of justice according to law,

37. A Legal Aid and Advice Act was adopted by Parliament in 1949. See the Legal Aid Scheme, 1950, "the scheme made by the Law Society with the approval of the Lord Chancellor and the concurrence of the Treasury for the purposes of Part I of the Legal Aid and Advice Act of 1949" (1950). THE FIRST REPORT OF THE LAW SOCIETY ON THE OPERATION AND FINANCE OF PART I OF THE LEGAL AID AND ADVICE ACT 1949, AND THE COMMENTS AND RECOMMENDATIONS MADE BY THE ADVISORY COMMITTEE (1951). Smith, *The English Legal Assistance Plan: Its Significance for American Legal Institutions*, 35 A.B.A.J. 453 (1949).

38. American Medical Ass'n v. United States, 317 U.S. 519 (1943).

39. Storey, *The Legal Profession versus Regimentation: A Program to Counter Socialization*, 37 A.B.A.J. 118 (1951); Freedman, *The Legal Profession and Socialization: A Reply to Dean Robert G. Storey*, 37 A.B.A.J. 333 (1951).

reasonable men will find fewer grounds for criticism. The proponents of change will have a difficult if not impossible task to stir up much popular discontent.

Legal aid work is the best device yet developed for preventing the growth of socialized law. But legal aid work will not be successful either as to promotion or administration unless we have at least a minimum of organization. That minimum calls for—not primarily money (that should take care of itself)—but a way of keeping records and of supplying men who have a professional point of view. Record keeping is largely mechanical. The real problem is in the area of motivation. We may distinguish roughly three types of motivation among the applicants for admission to the bar. Some—and we hope not too many—give great perhaps exclusive emphasis to matters of self-interest. For them conception of work in the profession does not rise much beyond the job stage. It is simply a way to make a living. A second group—and perhaps the largest—finds satisfaction in enlightened self-interest. To them the law offers a career. The third group—and always too small—is composed of those who have a full measure of idealism. These latter persons look upon their life work as a challenge to produce the best that is in them, an opportunity to contribute to the administration of justice whether or not they will receive something in return, a dedication.

There is some question as to whether a dedicated man is born so or may be made from less idealistic materials. It is clear, however, that if there is a spark it may be fanned into a flame; and if there be no inner light the sooner we find it out the better for the profession. The spark may be fanned intellectually by reading about great lawyers and great opportunities. It is more likely to be developed emotionally, morally, even spiritually by participation in idealistic activities of major concern to the administration of justice. Legal aid work has such idealistic overtones. Basically it is also a realistic vehicle by which the finest impulses of applicants for admission to the bar and members may be turned to account in advancing the prestige of the profession, the quality of the administration of justice and the sense of security of our fellow citizens in the American way of life.