

The plan does not contemplate any change in the internal political organization of either the constituent coordinated associations or the American Bar Association. It does not seek to control local opinion. Its effort is to secure expression of local opinion. The mechanics of the plan does not depend upon uniformity of effort of every association. State and local associations range from those highly organized and very active to those which are not well organized and which are inactive. In the plan, the strong active and willing associations can cooperate to as great a degree as they desire.

The American Bar Association is confining its efforts, for the present, to the national program rather than to scatter their energies in trying to work out some different form of organization. They have come to the conclusion that the underlying structure of the associations at this time is immaterial, and that the thing that is needed is united work. The work can be accomplished as well through one kind of organization as through another. What the future may hold in the way of organization of the bar of America can be better determined after closer relations are established between the various bar associations and between the lawyers of this country.

The difficulty in the past has been that nobody has been working upon this subject of trying to secure united work from the bar associations of the United States and now the American Bar Association proposes to undertake that task, with the help of the State and local bar associations.

Legal Aid Clinics

Their Purpose and Their Value to the Bar

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In the last few years a new element in legal education has been receiving more and more emphasis. The legal aid clinic, designed to give students clinical experience comparable to the clinical experience which medical students receive, is already well established in a number of our leading law schools. Despite the problems of an administrative nature involved in its operation, the public relations value is so marked as to cause some of us to fear that such organizations may be set up indiscriminately, without due regard for anything but the publicity involved.

The establishment of a legal aid clinic is a complicated process, which ought not to be treated lightly. The law school which sees in this enterprise primarily a means of self-advertisement and essays to open the office with an inexperienced and poorly prepared staff is courting trouble. Without the most careful supervision there is constant danger of a serious mistake, with consequent public criticism against the organization.

For those who are not familiar with the machinery involved in the operation of a legal aid clinic it may be desirable to point out certain distinguishing characteristics. A legal aid organization is a law office for poor people. It will not accept cases where a fee can be paid, and where applicants bring in matters in which a contingent fee is available

the client is refused assistance. In communities where legal aid work has been established for some time and the bar generally has become accustomed to its work there is no possibility of overlapping of legal aid jurisdiction because custom has indicated where the line runs. The organization supplements the work of the bar in its general task of administering equal justice to everyone.

A legal aid clinic is a legal aid society which has an educational function, namely, that of training law students. It also is careful not to accept cases where a fee, even a contingent fee, appears possible. At Duke University, and at the Southern California Clinic in Los Angeles, the clinics are located in the law school buildings and there the students have access not only to members of the faculty for advice, but also the law libraries. Elsewhere the students go from the law school to an existing legal aid society where their work is supervised by the attorney for the society and also, in some cases, by a member of the law school faculty. It is a fundamental rule that no action can be taken by the student and no decision made until after a conference with the supervising attorney. The trial of cases is conducted by members of the bar, to whom the student acts as assistant. The students occupy substantially the same position in the clinic office that the junior members of the staff of a large law office hold. In other words, the student does not practice law. He assists in the conduct of a case, which is handled by a duly qualified member of the bar.

Like other pieces of legal machinery, a legal aid clinic well run is an admirable enterprise. In this class fall, for example, those at the University of Southern California, at the University of California at Berkeley and at Hastings College of Law at San Francisco. In a less formal manner, and without particular faculty supervision, students from Stanford Law School have been gaining experience in the Alameda County Legal Aid Society.

The clinic method was approved by The State Bar of California in 1929. In response to the following question, presented to the Board of Governors: "Is it proper for a law school to organize a 'Legal Clinic' where free advice is given to worthy indigent clients needing legal aid and unable to employ counsel?" The approved report of the committee to which this question was referred was that

such legal clinics are proper when personally supervised by lawyers and if operated with and subject to regularly established legal aid societies and the committee of lawyers overseeing the activities of the legal aid society. It is further of the opinion that such clinic should not be used by universities or law schools for advertising or publicity purposes, or made capital of, as such conduct would be unethical and tend to bring the legal profession into disrepute.

It is further of the opinion that no legal advice or opinion should be given to any person until the same has had the personal examination and approval of a lawyer in and working with the clinic. Under no circumstances should the opinion of a student be given, although it is proper for the student to work on the same and thus get experience. Where advice or aid is given, it should be the advice or aid of a lawyer who is a member of The State Bar of California. (4 State Bar Journal [Oct., 1929], Part 4, p. 20; 5 State Bar Journal [Oct., 1930], p. 367.)

This article is designed to suggest certain fundamentals without which legal aid clinics can hardly hope to be successful.

The organization and operation of new clinics without adequate safeguards and attention to such fundamentals may result disastrously, not only to the institutions that father them but to the whole idea of legal aid clinics.

The legal aid clinic has two functions:

1. It supplements the case method of legal instruction, acting as a reasonable transition between the theory of law school and practice. It studies and attempts to evaluate the student as a whole, and to aid him to become a better practicing attorney—better in the sense of technical fitness and in social viewpoint. It also teaches that there is an art of law practice and that it is possible to conduct one's professional career in the grand manner;

2. It is a law office, rendering service without charge to poor people. In this respect it is like any other law office and its success with its clients and the public depends upon how well the individual cases are handled.

These two objectives are so closely interwoven that good work cannot be done in one field without doing equally good work in the other. The educational aspects of the work must be comparable to the best clinics that are available for medical students, and the client must receive as good attention as he would receive in the best law office in the city. The highest standard should be maintained.

Danger lurks in entrusting a part of the function of a legal clinic to inexperienced law students, without the most adequate supervision of attorneys, thoroughly competent members of the bar, whose legal, social and ethical standards are of the best. At the same time, unless a certain degree of responsibility is allowed clinical students, they will not learn the things they are supposed to learn.

A flesh and blood client is a novelty to a man whose previous contact with law has been by way of a printed page on which appears a judicial opinion. The judicial opinion presents material highly organized, as compared with the story which the client first tells his attorney. The student is unprepared to deal with unorganized material. He will make mistakes. But the client should be protected from unsupervised experimentation. At all times a delicate balance should be maintained between the enthusiasm of youth and the experience of age in planning campaigns in particular cases.

The following things tend to increase the difficulties of maintaining the balance: The location of the office where the clinic work is done at a distance from the law school where the students are; entrusting supervision of the work to part-time instructors whose major concern is with something outside the field of clinic work; believing that mistakes made by the organization can be covered up by bursts of publicity instead of by the patient day-to-day satisfying of individual clients, who will carry abroad the reputation of the clinic for sound work; the attempt to operate the clinic without adequate funds. The problem of adequate funds includes not only salaries to the staff sufficient to warrant them in spending an appropriate amount of time on the work, but such items as traveling expenses for students who must go to a distance to search court records, serve subpoenas, interview witnesses, or do other incidental items of work that are proper and instructive in their clinic training.

An adequate library is also an item to be considered. This library should be, as much as possible, equal to that of the libraries of the best practicing lawyers in the community.

There is danger in letting the philosophy of the work rest on too low a basis. There is much talk about the practice of the law being a sort of trade. The purpose of the clinic course is to teach students to practice law in the grand manner. This involves the effort to teach students to practice law in accord with the best standards both of ethics and technique, to work as hard and as conscientiously on a case where there is no possible fee as if one expected remuneration to the extent of a million dollars. Therefore, those devising the philosophy back of a particular clinic office should not allow any atmosphere to creep in except one of the most high-minded idealism. There are unwritten rules and customs of the profession, adherence to which marks a man as being among the better class of lawyers. An effort should be made to see that these rules and customs are kept clearly in mind.

Specifically, there is danger whenever skill and vision is lacking in the handling of the following situations: Students and members of the staff must hold themselves above accepting any fee from a client. The least of the evils resulting from such conduct would be conflict with the bar. The greater evils would be the lowering of the morale and disinterestedness of the work. The student or member of the staff handling the case may do his client serious injustice in the broad sense unless he sees not only the legal problem involved but opens his mind to the economic and social problems of the client as well. The student must learn to appreciate the time element involved in the case and to know that unless the lawyer files papers and prepares documents within the time prescribed by law, he cannot prevent a client's rights from being lost irrevocably; and as a student, he must feel the nascent spring of such responsibility within himself, and be diligent in all things he is called upon to do.

If, in addition to these matters, such a student, by the letters he writes, the telephone conversations he conducts, the interviews in which he participates, displays more judgment than courage, more tact than analytical power, more discretion than energy, a desire to serve, he reflects the result of a training that is as important to the bar and to the public as to have learned the letter of law. It may then be said that he has comprehended the form and substance of law. A clinic that gives such training will avoid the irritation caused by mistakes and achieve the credit for good work well done.

Clinical training is so valuable to law students and legal aid is so indispensable to the poor people who benefit from the service that this form of organization deserves to be supported—under proper safeguards. There is no absolute formula as to the way in which it must be carried on. However, it can hardly succeed unless the same attention is given to it as a lawyer would give to his own practice. Those who are interested in the establishment of such clinics are urged to make a careful study of the successful ones already existing in California. Both the good and the bad points must be weighed carefully. Enough money must be available to get first-class service of lawyers, and even then those in charge must grope their way by the trial-and-error method through a maze of local problems. If adequate care is taken the success of the enterprise and the good that it will accomplish will help the bar and the public, and will justify all the money, time and effort that have been put into it.