

Legal Aid Clinics Train Young Advocates

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The practical need for giving instruction in courtroom practice was well set forth in the address by Justice Thomas J. Cuff, published in the recent April number of the JOURNAL. One partly developed resource is here set forth. Ambitious law students who are trained in the Legal Aid Clinic of Duke University under the supervision of Professor Bradway are on the high road which leads to expert advocacy. There are a few other law school legal aid bureaus, and there should be many more.

JUSTICE CUFF'S PAPER presents a very definite problem in legal education—how to train young lawyers competently to try cases. In seeking a remedy, the first decision to be made is with regard to the direction of the search. Traditionally, in this country work of the kind suggested by Justice Cuff has been learned by the young lawyer either in an apprenticeship relation with some law office or by the trial and error method in which the client too often pays for the mistakes of his untrained attorney.

The law office today is recognized as less and less effective as a center of adequate legal education. Its preoccupation with the interests of the client is natural. The active practitioner has little time for instructing students, except as they fit into an office system and perform assigned tasks. Under such a regime the student has inadequate opportunity to develop initiative, adjust himself to the responsibility of making decisions, or to become familiar with those parts of law practice in which the lawyer is required to exercise the finer points of his technique. For the young lawyer who opens his own law office, the situation is even more serious.

The bar associations in some of the larger cities may have sufficient funds to set up an instructional system to provide the type of training Justice Cuff has in mind. In the majority of communities, however, financial support will not be available for this type of work, and consequently for any adequate solution there is reason to look elsewhere.

WHAT THE LAW SCHOOL COULD DO

The law school is the third and most promising possibility. Its qualifications in providing leadership of a remedial program such as may

be indicated in this situation are its long experience with teaching techniques and the comparative ease with which it can make the necessary adjustments. The quality of law school instruction in the long run would probably be more effective than that obtainable through the average law office or bar association. And this statement is no criticism of the two latter agencies.

The next decision is as to the required administrative machinery, particularly as to money and time. The main possible item of additional expense will arise if one or more faculty members need be added. This is a matter for the individual law school. Either more time should be allocated or this remedial program must take the place of something already in the curriculum. The instructors should be persons interested in training for public service as well as for legal scholarship. In the light of such considerations it is a simple matter for the law school to hesitate to embark upon the venture, urging that the limits of its service are prescribed by a three year or, in some instances, a four year curriculum; that some evaluation of all the possible courses must be made and that there are other more important matters; that the student can learn more law in the same time according to the traditional case method of instruction. If the convenience of the law school is the test, these arguments have some weight. But if *improved service to the public* is the goal, answers should be sought to these objections.

Certain law schools have already recognized the relative importance of a variety of aspects of practical work. Courses in briefing, legal documents, practice courts, moot court arguments, and legal aid clinics make a respectable

showing in the catalogues. The idea that law school training must be limited by a three year or four year curriculum is more arbitrary than realistic. If the law school can be encouraged to adopt the theory that legal education is a lifelong affair and that the law school should expect and plan to help its graduates from the beginning to the end of their professional careers, the way would be open for experimentation to deal with Justice Cuff's problem. Money and time in such a situation become merely a challenge to ingenuity.

The objective limit to which the proponents of legal education should go approximates the reasonable expectation of the public as to what a lawyer should be able to do. As this reasonable expectation never crystalizes, continual experimentation, evaluation and adjustment should be inevitable characteristics of the educational program.

Legal aid clinic courses foreshadow the direction of this experimentation. At present such courses are offered in a limited but increasing number of schools. The classroom hours allotted to them are often restricted to one or two a week for third year students.

If those who agree with Justice Cuff can persuade law faculties that the present situation makes possible a real indictment of the effectiveness of legal educational methods progress might be made either by strengthening existing under-graduate legal aid clinic courses or adding graduate seminars, or both.

It may be desirable to explain why the legal aid clinic movement appears the logical point of departure for a remedial program. Legal aid clinics are designed to help the student answer the problem, "What shall I do for this client?" This requires the application of a different teaching technique than the case method which recurs frequently to the traditional question, "What is the law on a given set of facts?" Clinical instruction gives disciplines in other aspects of the lawyer's mental process than the analytical. If a major purpose of legal education is to teach law students to think and act like the best lawyers, then the legal aid clinic course is of particular value in exposing the student to situations requiring him to demonstrate comprehensively his grasp of all the mental processes expected of the competent practicing attorney from the

time the client first enters the law office until the problem is completely solved, whether by conciliation, litigation, legislation, or in some other fashion.

At present legal aid clinic courses, because of limitations of time, confine their efforts largely to the more routine aspects of such mental processes. The same type of instruction expanded in a graduate seminar or a series of such courses could readily be adjusted to include instruction in those fundamental principles of the art of law practice which Justice Cuff properly regards as so important. The products of such an instruction routine would appear before the courts as far more seasoned thinkers than do many of the inexperienced neophytes today.

AN IDEAL SYSTEM.

The legal aid clinic teaching method involves two processes. There are class room exercises in which the student observes and participates repetitiously in various disciplines. Among these are interviewing a client, the use of the courthouse as a source of legal facts, planning a campaign in a case at law, gathering and marshalling material for drafting legal documents, marshalling evidence in anticipation of a trial. Later, under supervision, he deals with flesh and blood clients and there gains experience in applying principles of law and practical techniques to the solution according to law of actual human problems. As he demonstrates dependability, resourcefulness, initiative, judgment and similar signs of professional maturity the supervision is relaxed until he is on his own. Thus with a minimum of shock to himself and none to the client the gap between the academic study of the law and its realistic practice is bridged.

Two fundamental considerations are: an orderly plan of instruction so that the student may not only progress but may have a chance to measure his own progress and thus be encouraged to cooperate; individualized instruction so that the teacher may be able to tell when each member of the class is ready for the responsibilities of the active lawyer. Legal aid clinic methods have been described in detail elsewhere and require no restatement here.

Through the cooperation of judges, lawyers