

LEGAL AID WORK IN PENNSYLVANIA

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Chairman, Committee on Legal Aid Work

The Legal Aid Committee of the Pennsylvania Bar Association was established in 1923.¹ Heretofore its pronouncements have been confined largely to its annual reports. Its formal purposes² are described in terms similar to those defining the scope of activities of the Standing Committee on Legal Aid Work of the American Bar Association.³ In effect, its obligation has been to keep the Association informed regarding the progress, in the state, of a humanitarian movement peculiarly interesting to lawyers. In the present post-war era there is occasion to consider briefly the trend of past developments and to suggest the direction of future progress.

The phrase "legal aid work" is based upon a fundamental concept of our form of government, namely, that no man because of his poverty should be denied the equal protection of the law. The phrase "the equal protection of the law" appears in the federal constitution.⁴ The idea in different language is expressed in the Constitution of Pennsylvania.⁵ Since these words do not enforce themselves it is clear that somebody should undertake the responsibility for giving them practical effect. That somebody, in our legal system, is the lawyer. The record of his assumption of this

1. 29 Reports Penna. Bar Assn. p. 223 (1923). 32 Reports Penna. Bar Assn. p. 235. Made a standing committee.

2. 44 Reports Penna. Bar Assn. p. 14, 244 ff.

3. American Bar Assn., Art. X, Sec. 11. See also papers read at the meeting in 1920 in the Symposium on "Legal Aid". 45 Rep. A.B.A. 217-258.

4. 14th Amendment U. S. Constitution—"No State shall . . . deny to any person within its jurisdiction the equal protection of the laws."

5. Constitution of Pennsylvania, Art. I, Sec. XI.: All courts shall be open and every man for an injury done him in his lands, goods, person or reputation, shall have remedy by due course of law and right and justice administered without sale denial or delay.

unending task has never been written in full. The extent of the unselfish contributions of time and skill by the individual practitioner on behalf of the impecunious client is known only to himself. He has preferred to say little or nothing about the matter. But in essence this burden, however cheerfully borne by individual members of the profession, is more logically a concern for the organized bar. The record of the steps taken by bar associations on behalf of organized legal aid is easier to find.⁶

An early indication appears in 1917 when the conference of Bar Association Delegates adopted the following resolution:

"It is the sense of this conference that bar associations, State and local, should be urged to foster the formation and efficient administration of legal aid societies for legal relief work for the worthy poor with the active and sympathetic cooperation of such associations."⁷

But the idea has its roots in the traditional past. We are told that the English sergeants-at-law were entitled to a monopoly of certain types of legal privileges but "from a very early period, they might be named by any of these courts to plead for a poor man."⁸ The Ecclesiastical lawyer of the Middle Ages who practiced his profession "for the glory of God"⁹ found it easy to discharge what amounted to a spiritual duty to the indigent.¹⁰ The Roman lawyer probably dealt with his poor clients as a civic duty.

Legal aid work, both by individual lawyers and on an organized basis, has received approval by leaders of bench and bar and in particular by the Committee on Ethics and

6. A pamphlet, "The Work of Legal Aid Committees of Bar Associations" was published in 1938 by the Standing Committee on Legal Aid Work of the American Bar Association.

7. 42 Am. Bar Assn. Rep. (1917) 437.

8. Holdsworth: History of English Law, Vol. II, p. 491.

9. Roscoe Pound: The Legal Profession in America, 19 Notre Dame Lawyer 339, 354.

10. John H. Wigmore, How Many Lawyers Were Ever Made Saints, 23 Ill. L. R. 199; 18 A.B.A.J. 794.

Grievances of the American Bar Association.¹¹ The present trend is toward organized service because it is gradually being recognized that even though the individual lawyer may be willing to devote all the time he can afford to the work, the community need is still not met. From the standpoint of the needy client in search of immediate aid, the organized service is easier to locate. The legal aid applicant, who is apt to be hesitant rather than aggressive, may not care to sit in the lawyer's waiting room alongside of those who can pay a fee.

Organized legal aid work made its appearance in Pennsylvania in 1901 with the creation of the Philadelphia Legal Aid Society.¹² In 1899 the Civic Club of Allegheny County began a study which resulted in the employment of an attorney in 1901 and the incorporation of the Pittsburgh Legal Aid Society in 1908.¹³ In 1911 representatives from various legal aid societies met in Pittsburgh to establish the National Alliance of Legal Aid Societies.¹⁴ The late M. W. Acheson, Jr., Esq., was largely instrumental in calling that meeting. From then until World War I there appear to have been no new organizations.

After an interval during the war years the movement in Pennsylvania began to spread to the midsized cities and later even to the less thickly settled areas.¹⁵ Perhaps it would be more accurate to say that the idea of such organ-

11. See the following from Opinion No. 148 of the Committee: "The defense of indigent citizens, without compensation, is carried on throughout the country by lawyers representing legal aid societies, not only with the approval, but with the commendation of those acquainted with the work. Not infrequently services are rendered out of sympathy or for other philanthropic reasons, by individual lawyers who do not represent legal aid societies. There is nothing whatever in the Canons to prevent a lawyer from performing such an act, nor should there be. Such work is analogous to that of the surgeon who daily operates in the wards of the hospitals upon patients free of charge—a work which is one of the glories of the medical profession."

12. For a description of the original Legal Aid Society in Philadelphia, see Reginald Heber Smith, *Justice and the Poor* (1919) p. 141. For a description of the Municipal Legal Aid Bureau now no longer in existence, see Romain C. Hassrick, "The Philadelphia Legal Aid Bureau of the Department of Public Welfare," 124 *The Annals* p. 42 (1925).

13. *id.*, p. 144.

14. See Proceedings, "First Conference of Legal Aid Societies of the United States" published by the Pittsburgh Legal Aid Society 91.

15. Smith and Bradway, *Growth of Legal Aid Work in the United States*, p. 97. Bul. No. 607 U. S. Bureau of Labor Statistics.

izations began in an effort to deal with population problems in our large urban areas. Later it was recognized that legal aid service was an essential part of the administration of justice.¹⁶ Therefore it belonged with the existing machinery for promoting justice according to law. As that machinery had been developed on a county basis, the county, rather than the city, was the normal governmental unit to be considered in extending free legal aid.

Between 1918 and 1941 organized legal aid work in Pennsylvania made its appearance in many counties. The following list is, no doubt, inadequate. The Legal Aid Committee of the Pennsylvania Bar Association will appreciate information making its records more complete and enabling it better to give recognition.

- 1924 Berks, Lackawanna, Luzerne¹⁷
- 1925 Dauphin¹⁸
- 1929 Erie¹⁹
- 1930 A Voluntary Defender was added to the staff of the Pittsburgh Legal Aid Society
- 1931 Northampton²⁰
- 1934 Delaware²¹. A Voluntary Defender was created in Philadelphia
- 1935 Cambria²²
- 1937 Cumberland,²³ Montgomery, Tioga²⁴
- 1939 A survey of the need for legal aid service in Butler County was conducted under the auspices of Wayne Theophilus, attorney for the Pittsburgh Legal Aid Society²⁵
- 1941 Blair, Lycoming²⁶

16. See remarks by Hon. Frederick H. Stinchfield, President of the A.B.A. speaking before the North Carolina Bar Association 1936.

17. 30 Rep. Penna. Bar Assn. 229.

18. 31 Rep. Penna. Bar Assn. 145.

19. 35 Rep. Penna. Bar Assn. 84.

20. 38 Rep. Penna. Bar Assn. 262.

21. 40 Rep. Penna. Bar Assn. 224.

22. 41 Rep. Penna. Bar Assn. 208.

23. Frederick J. Templeton, "Legal Aid Problems in a Rural County," 205 *The Annals* 95 (1939).

24. 43 Rep. Penna. Bar Assn. 193.

25. 45 Rep. Penna. Bar Assn. 162.

26. 47 Rep. Penna. Bar Assn. 284, 287.

The record is not sensational but reveals a growing recognition of the need and an intelligent approach to a remedy.

During World War II many of these organizations continued to function. Some failed to survive even the earlier years. The more dramatic aspects of free legal service, advice and assistance to servicemen and their dependents were cared for with distinguished success by the state and local Committees on War Work. Last year the State Bar Committee on Legal Aid Work made an effort to discover which organizations had outlasted the period of World War II. Reports were received from the following counties: Philadelphia, Northampton, Lackawanna, Allegheny, Erie, Cambria, Indiana, Delaware, Montgomery.²⁷ In addition, word is received that the work continues in Berks and Dauphin.

If one may generalize regarding our experience to date, it might be summarized as follows. Organized legal aid work is the best way yet found to meet the particular need of the poor man for equal justice according to law; supplementing what individual practitioners have the time to do. The form of organization²⁸ in a given county will vary depending upon the size of the demand and whether the clients are concentrated or scattered throughout the area. The most simple and least expensive form of organization is a bar association committee. Bar association committees, being composed generally of volunteers, have difficulty in maintaining continuity, particularly when the officers of the bar association change. The most effective device yet suggested to meet this purely administrative problem is to have the bar committee make arrangements with a local social service agency such as the Family Service, the Red Cross or other permanent group, to act as receptionist for all legal aid applicants. The receptionist will not only care perma-

27. 17 Penna. Bar Assn. Q. 362.

28. In 1940 the National Association of Legal Aid Organizations prepared a pamphlet, "Forms of Legal Aid Organizations in Middlesized Cities and Smaller Communities."

nently for the routine of receiving and forwarding clients and cases to whichever lawyers may, in a particular year, be members of the legal aid committee; in addition, it will tend to screen out those applicants who can afford to pay a fee and who, therefore, are not entitled to free legal aid. The expense to the bar will not be increased by such a plan but the quality of operation will be improved.²⁹

How are we doing in Pennsylvania? In comparison with the other States, as their work is reported in the annual statistics compiled by the Standing Committee on Legal Aid Work of the American Bar Association,³⁰ we seem to be giving a reasonably good account of ourselves. Those who are interested may find food for thought in the progress made in Connecticut by Statute,³¹ in Washington by a state-wide survey and statute,³² and in North Carolina where the Committee on Legal Aid Work performed, during the war, the functions of the Committee on War Work.³³

But in comparison with what other professions are doing to bring their aid to impecunious members of the general public who seek their assistance, we do not fare quite so well. No extended collection of statistics is needed to demonstrate how, and to what extent, the church makes available the comforts of spiritual aid to those who cannot pay. In settlement houses, by foreign missions and through pastoral services, the unselfish traditions of the Ecclesiastical establishment are maintained. Members of the medical profession participate in free clinics, in research projects, in charity hospitals. The group now receiving the least adequate medical care is probably no longer the very poor man but the

29. To select one example more or less at random, the structure of the Erie organization is worth study.

30. See Annual Reports of the Standing Committee on Legal Aid Work of the American Bar Association beginning in 1921.

31. See Thomas Hewes, *The Connecticut Plan for Legal Aid*, 124 *The Annals* 152.

32. See Report of Standing Committee of American Bar Association, 64 *Rep. A.B.A.* 226, 235.

33. See Reports of the North Carolina Bar Association since 1932 including the reports of the Committee on Legal Aid Work.

person of very modest means. The field of social and welfare work with its community chests, its Red Cross drives, and, during the war, its united operations on a national and international scale, is another familiar service on a professional or at least quasi-professional level.

Perhaps the most impressive feature of all of these developments has been the ability of the other professions and their co-workers to make real to the public at large; the plight of the poor man in need of spiritual solace; the suffering of the poor woman requiring medical aid; the tragedy of the dependent and neglected child whose only hope is in expert social service. Beside these familiar figures the legal aid client even to us lawyers is a dimly seen, often underestimated personage. It would be serious enough if the matter stopped there. What makes it more complicated is that critics of the legal profession may, if they are not already beginning, take notice of the unserved legal aid group.

How large that group of persons may be is presently a matter of speculation in Pennsylvania and elsewhere. Reports from the legal aid organizations of the state indicate that perhaps 20,000 persons annually apply to them for aid.³⁴ However, these reports do not tell the whole story. Prior to World War II many lawyers felt that the total number of applicants for this service was, in most of the counties, quite small.³⁵ The activities of the Committee on War Work³⁶ should have effectually dispelled any misapprehension that may exist on this score. The number is substantial and except in the event of a crisis such as the war, we have no presently available figures telling whether it is increasing or decreasing. In this respect it is interesting to compare the usefulness of medical statistics in showing the growth or decline of medical problems. A case of infantile paralysis,

34. See the Annual Reports of the A.B.A. Committee.

35. See comment on this by Reginald Heber Smith in "Legal Aid During the War and After," 31 *Journal A.B.A.J.* 18, 19 (1945).

36. See comments on the enormous volume of the work in Pennsylvania in the reports of this committee, particularly in 50 *Rep. Penna. B. Assn.* 57 ff, 149.

or smallpox, or some other disease is usually known promptly and remedial measures may be taken without delay. The poor person deprived of his legal rights may not even know what his rights are. Even if he does, he may not know that the lawyer is ready and willing to help. There is practical reason, in the field of public relations of the organized bar, why we lawyers should endeavor to find out the size of the legal aid client group and keep it reduced to a minimum.

The Legal Aid Committee of the Pennsylvania Bar Association is interested, first, in the development in all the counties in the State of organized legal aid service appropriate to the population for the purpose of ascertaining the full extent of this need and meeting it; second, in the strengthening, in counties where it already exists, the effectiveness of the organizations. The aid of all members of the Association in the furtherance of these aims is earnestly requested.