

Wartime Opportunities in Legal Aid Work

JOHN S. BRADWAY*

"The weakness of the volunteer individual legal aid system is the unbridged gap between the willing lawyer and the uninformed or timid client. The bridging process calls for an organization."

IN PEACE TIME, the phrase "legal aid work" brings to mind a humanitarian activity of the organized bar, carried on as a part of its public relations program.¹ Organized legal aid work has not advanced very far beyond the municipal boundaries of our large urban centers. The traditional machinery for administering this form of professional service to the community has been: a specialized law office, staffed by full time lawyers and clerks, and caring for an unending succession of cases, representing every sort of human trouble. The clients belong to a class of persons who have legally meritorious problems but are not able to pay a fee. One reason for the comparatively slow advance of the movement into the smaller towns and the rural counties has been the argument of the local lawyer that his office door is always open to the impecunious applicant, and that he supplies the necessary answer to the problem.

In war time, the phrase "legal aid work" has brought to some observers an enlarged concept of the urgency of the community need and the nature of a desirable remedy. The object in peace as in war is the same: to see that everyone receives the equal protection of the law; but now we talk in terms of keeping up the morale of the needy serviceman and his family. The need in less thickly settled areas, appears more wide-spread than we had realized. The machinery for handling the work has been augmented to its great advantage by state bar association committees on war work and on legal aid work.²

*Professor of Law and Director of the Legal Aid Clinic, Duke University; retired secretary of the National Association of Legal Aid Organizations.

1. The National Association of Legal Aid Organizations in 1940 published a "Tentative Bibliography of Material on Legal Aid Work." A brief statement will be found in E. L. Brown, *Lawyers and the Promotion of Justice*, S253 Russell Sage Foundation 1938.

2. See for the work of the American Bar Association monthly references in the *Journal*. See also the "war letter" published monthly by the Committee on

These committees are able to reach into every county and to care for individual local problems. In addition the armed forces have established legal assistance officers at the various military camps and naval stations.³ There is now, for the first time, something approximating a national coverage. The servicemen and their families have turned up for solution many domestic problems; but still some of them are victims of shrewd neighbors who are willing to take advantage of a man in uniform when he is not available to protect his rights.⁴

War time legal aid work is teaching us two lessons: first, that the volunteer system of providing legal aid, in spite of the traditions surrounding it, is not a complete and adequate answer to the community need; second, that the system of legal aid work for servicemen, as it now exists, may by a little thought and effort, be made into a permanent establishment which will be a credit to the post-war bar association as well as to the individual lawyer who is now contributing his time and skill. These two lessons present us with a challenge and an opportunity.

If we act now, a valuable community resource will be made permanent. If we allow the occasion to pass without action the task of legal aid promotion in peace time will be long and hard. It would appear that the desirable and necessary steps at the present moment are neither revolutionary, expensive, nor laborious. They consist merely: in ascertaining the major weaknesses of the volunteer type of legal aid service by individual lawyers; and, in sup-

Coordination and Direction of the War Effort: as an example of the work within a state see Reports of the Committee on Legal Aid Work of the North Carolina Bar Association—43 Rep. 22 (1941); 44 Rep. 133 (1942); the 1943 report is not yet in print.

3. War Department Circular No. 74. Navy Department Circular R 1184.

4. The National Association of Legal Aid Organizations collects records showing the source, nature, and disposition of the cases received by the member agencies. There is a wide variety.

plying a simple remedy for which there is respectable precedent in our sister field occupied by the medical profession.⁵

The weakness of the traditional volunteer system of legal aid work does not lie with the lawyer. He is ready and willing to serve. But if the applicant does not push open his office door he can hardly be expected to engage in solicitation of legal business even though he expects to charge no fee.⁶ The obstacle lies in the client's mind or in our lack of understanding of the motives which impel him. It is easy to assume that the legal aid client is a litigious, turbulent fellow who wants something for nothing. That sort of person will not hesitate to demand all his rights under any system. But information is increasing from many sources that a large number of legal aid clients never do take advantage of this community resource, not because their rights are not invaded but because of their lack of knowledge and their shyness, timidity or feeling of helplessness. The Philadelphia Neighborhood Law Office reports that in its first year of operation over 80% of its applicants had never been to a law office before.⁷ The new war agencies in the legal aid field have been able, in a variety of ways, to bring the availability of their existence to the attention of servicemen and their families who never before had entered a lawyer's office.⁸

Workers in legal aid societies have long realized that many of their clients must undergo an educational process before they can develop enough courage to come for aid. They find it necessary to learn: that they have legal rights and that these rights are being affected; that lawyers are ready and willing to aid; that a particular lawyer will be available at a particular time and place. Also they need to over-

come what must, in some cases, be a major obstacle, the embarrassment of sitting in a law office along side of clients who pay a fee.

The weakness of the volunteer individual legal aid system is this unbridged gap between the willing lawyer and the uninformed or timid client. The bridging process calls for an organization—but not necessarily a specialized, costly, big city legal aid society. Rather the fundamentals of the remedy, in their simplest form, appear to be: a definite place where the work is centered, so that it can be readily located by those who may not read newspapers; a definite time, so that neither lawyer nor client shall waste this valuable commodity; a definite person in charge so that responsibility may be fixed and records kept to tell us whether we are winning or losing the war. Supervision by the local bar association will insure standard service and the adoption of proper policies.⁹

Translating these generalizations into specific recommendations we find a legal aid organization, basically may consist of: a receptionist and a committee of volunteer lawyers under supervision of the bar association. The receptionist should be paid but the remuneration need be only nominal. He or she may be employed on a part time basis—perhaps as little as a few odd moments a day amid other duties, during which applicants are received, administrative and clerical work attended to, aid is given the applicant in organizing and marshaling confusing facts, the question of ability to pay is explored and answered, persons not entitled to the free service are declined, and those eligible are referred in rotation, or in some other suitable fashion, to the members of the lawyer's committee. The receptionist is of major benefit to the client and in due course will bridge the gap. But the plan also benefits

5. In the medical field the Public Health Services and Insurance Companies have been and are doing an elaborate educational service. The free clinics, dispensaries, and out-patient departments are agencies where able and public spirited physicians may render purely professional service. But there is no reason to expect the physicians alone to support these free agencies or to take these free patients in their own offices. If the lawyer contributes his time and skill that is enough.

6. The Committee on Ethics of the American Bar Association in its opinions—such as 169, 205, 227, has distinguished between bona fide legal aid organizations and agencies designed to feed lucrative legal business to the office of a particular lawyer.

7. Joseph M. Weresch "The Legal Five and Dime." 42 Reader's Digest, March 1943.

8. The War Work Program has received publicity in newspapers and on the bulletin boards of military and naval establishments. If the town crier of an earlier day were still available he could do much in this direction.

9. There are three publications primarily devoted to a consideration of the structural aspect of the Legal Aid Organization:

Legal Aid Bureaus: A manual of practice published by the Public Administration Service, Chicago.

Forms of Legal Aid Organizations in middle sized cities and smaller communities published by the National Association of Legal Aid Organizations.

The Work of Legal Aid Committees of Bar Associations published by the Legal Aid Committee of the American Bar Association.