

## THE GROWTH OF LEGAL AID WORK

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### *Introduction.*

To maintain individual security in a changing social order requires constant planning and constructive effort. Among the factors characteristic of those in insecure positions poverty is the most widespread. Where there is poverty an individual puts up but a feeble resistance to such demoralizing forces as mental and physical handicaps, unemployment, domestic infelicity, improper housing and the vast group of catastrophes such as fires, floods, droughts, plagues, earthquakes.<sup>1</sup> In devising social machinery to aid the individual in his battle the emphasis is turning toward the preventive devices rather than the remedial. An ounce of prevention is worth a pound of cure not merely because it is less expensive in the long run but because if social demoralization has once overcome the individual the task of rehabilitation includes recreating spiritual morale and a sense of confidence in the agencies of reconstruction.

One of the less dramatic, but none the less vital, causes of individual social decline is the failure of the machinery for the administration of justice to function quickly, inexpensively and simply.<sup>2</sup> Where poverty is present the wage earner who is unjustly denied his earnings on payday often lacks the opportunity to secure his legal rights and he and his family sink in the social scale to the point where they require

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<sup>1</sup> The United Charities of Chicago in endeavoring to classify the causes which bring people to its door groups them under the following general headings:

Physical problems such as malnutrition, diseases, blindness.

Economic problems such as unemployment or insufficient wages.

Mental problems such as epilepsy and other mental disorders.

Social and behavior problems such as domestic infelicity, illegitimacy, inadequate parental care.

Finally community problems including bad housing, lack of educational facilities.

<sup>2</sup> For an extended discussion of this point see Reginald Heber Smith, "Justice and the Poor," Carnegie Foundation, 1919. See also "Justice and the Poor in England," by F. C. G. Gurney-Champion, The Law Notes Publishing Office, London, 1926.

material aid in the form of a government subsidy.<sup>3</sup> What may be their reactions to a system for administering justice which is so expensive,<sup>4</sup> so slow and<sup>5</sup> so complicated<sup>6</sup> as practically to place justice according to law beyond their reach one may imagine. Similarly other figures may be used as illustrations. The deserted wife, seeking support for herself and her children, the tenant about to have his few belongings set on the side walk, the purchaser of articles on an installment contract with the furniture van at the door ready to repossess, the borrower from the loan shark who has paid 200% interest and still owes the principal, the mortgagor at the end of his resources, the servant unjustly discharged without a recommendation, the aged participant in a neighborhood quarrel, the husband whose life's saving have been taken by his wife when she ran away with another man, the child ill treated by foster parents, the orphan in danger of being cheated out of the few dollars of an estate of a decedent—these persons, assuming that they have legal rights, if poverty be a factor, face the present system for the administration of justice at a disadvantage. If they have not the money for court fees and costs the present statutes providing an *in forma pauperis* procedure are generally inadequate. It is

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<sup>3</sup> The position of the wage earner who is unable to collect his wages has received much consideration in legislation and elsewhere. For a summary of the situation see Bulletin 491 of the United States Bureau of Labor Statistics, page 851, and following which discusses the results of a survey made in 1927 to determine the extent of collection of wage claims by state labor offices. See also the Report of the Legal Aid Committee of the American Bar Association, volume 52, Reports American Bar Association, page 324, 1927 for the first draft of a model statute for facilitating the collection of wage claims.

<sup>4</sup> For a discussion of the subject of court costs see, John M. Maguire, "Poverty and Civil Litigation," 36 Harvard Law Review 361 (1923). For suggestions as to remedies see the Report of the Standing Committee on Legal Aid of the American Bar Association, 49 American Bar Association Reports, page 386, 1924 and 50 American Bar Association Reports 456, 1925. For a comment on appeals see 4 Southern California Law Review 295 (1931).

<sup>5</sup> The principle that "justice delayed is justice denied" is extensively documented. For example see 12 American Bar Association Journal 443 (1926); 16 Marquette Law Review 227; 57 American Law Review 24.

<sup>6</sup> The effort of the American Law Institute to restate the law is but one example of the fact that it is too complicated for the layman to deal with unless he is aided by a trained attorney.

proverbial that justice delayed is denied. Seldom will the individual find it possible to thread his way through the intricacies of the law without the advice of able and ethical counsel.

To provide social security many lay and professional groups are mobilized. Proposals such as those for old age pensions and unemployment insurance result. A particular sector of the defense lines is assigned to the legal profession.<sup>7</sup> Its peculiar care is to keep the machinery for the administration of justice at a high standard of efficiency. Where poverty is a factor the accepted remedy lies in the legal aid movement.

### *Legal Aid Work*

Legal aid work<sup>8</sup> during the last thirty years has gradually been winning nationwide approval as a piece of legal machinery designed to improve the administration of justice in urban communities.<sup>9</sup> Its function has been recognized as providing without charge to the impecunious client a means of lifting him over the three obstacles of court costs, delays and expense of counsel, which confront him on his way to secure equal justice.<sup>10</sup> The persistent growth of legal aid societies in the larger cities is readily explained by the demands of an

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<sup>7</sup> For a discussion of the relationship of the Legal profession with other professional groups in the field of the Social Sciences see among others Robert W. Kelsey "The Historical Steps by which Law and Social work are coming Together," *Annals of the American Academy of Political and Social Science*, Volume 145, page 17 and George W. Kirchwey, "Forms of Cooperation between Law and Social work," 1926, *Reports National Conference of Social Work*, page 181. For a resume of a practical development in this direction see *Reports of Committees of the National Association of Legal Aid Organizations for 1933-1934*, page 72, "Summary of the work of the Committee on Relations with Social Agencies of the National Association of Legal Aid Organizations, 1922-1934."

<sup>8</sup> For a general bibliography of legal aid work, see the Report of the Standing Committee on Legal Aid Work, 57 *American Bar Association Reports*, 515, 1932.

<sup>9</sup> For figures showing the extent of Legal Aid Work in urban communities, see Report of the Legal Aid Committee of the Pennsylvania Bar Association, 39 *Reports of Pennsylvania Bar Association*, 299; ed. 221.

<sup>10</sup> For material developing the concept that legal aid work is part of the administration of justice, see 46 *Reports of the American Bar Association*, 493, Report of the Special Committee of Legal Aid Work and Charles E. Hughes, "The Relation between Legal Aid Work and the Administration of Justice," 45 *id.* 217.

increasing population. The lack of corresponding development in the smaller towns and rural areas has not aroused much interest. It is easy to suggest that there is no need there and to assign as reasons the more homogeneous character of agricultural populations, with less extreme conditions of wealth and poverty; the survival of community cooperation from frontier times, thus rendering unnecessary a formal organization;<sup>11</sup> the lack of initiative in certain classes of persons in asserting rights by legal process. In correcting such impressions a variety of studies in the past decade have revealed a substantial volume of legal aid problems in less thickly settled areas—problems which make their appearance when an agency is established to record them.<sup>12</sup> During the same period legal aid agencies have sprung into being to meet what are substantially rural conditions.<sup>13</sup> There is an increasing interest in their nature and method of functioning.<sup>14</sup>

<sup>11</sup> Roscoe Pound, "Spirit of the Common Law," Chapter 5 and F. J. Turner, "Frontier in American History," Henry Holt and Company, 1921, emphasize the existence of the pioneer spirit in our modern communities.

<sup>12</sup> Beginning with the year 1924 the Legal Aid Committee of the Pennsylvania Bar Association has collected considerable material regarding legal aid work in various states. For example, on page 233 of the 1924 Report of the Pennsylvania Bar Proceedings there is a summary of the cases handled in Illinois during the year 1922. Similarly, figures are available from the Report of the Legal Aid Committee of the Michigan State Bar Association, 11 Michigan State Bar Association Journal, p. 121 (1931), and the Report of the Legal Aid Committee of the California State Bar Association, 9 The State Bar Journal 26 (Sept. 1934). The operation of the legal aid organizations in Madison, Wisconsin, and Durham, North Carolina, cities of about 60,000 population, has also produced substantial material. The Duke Legal Aid Clinic in Durham, North Carolina reports for the three years of its existence the following volume of business:

1931-32.....	243 cases
1932-33.....	306
1933-34.....	336

The Madison, Wisconsin Legal Aid Bureau reports the following volume of business:

1929.....	10 cases
1930.....	88
1931.....	98
1932.....	....
1933.....	400

<sup>13</sup> See *infra* for more detail.

<sup>14</sup> For material stressing the need of legal aid service in rural communities, see the following: Alice Hill, "Legal Aid in the Small Cities,"

*Devices that the used to Render Legal Aid Service in Less Thickly Settled Communities.*

Even a brief examination of the existing agencies providing this service outside the large cities indicates a wealth of experimentation. Some plans anticipate a state wide and some a county wide scope. In certain states the Bar Association has appointed a committee<sup>15</sup> which has districted the state and functions through individual volunteers in each section. Elsewhere<sup>16</sup> the legislature has provided for publicly supported organizations with paid staffs strategically located in various centers of population. In several cities<sup>17</sup> the local bar association has assumed responsibility sometimes on a volunteer basis and sometimes by contributing or

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Vol. 124 of the Annals of the American Academy of Political and Social Science, page 59; Margaret B. Hay, "Law and Social Work in a Rural Community," Vol. 145 Annals, page 137.

<sup>15</sup> For a description of the plan in effect in Illinois, see Reports of the Proceedings of the Illinois State Bar Association, 1922, page 137 and following, and for a more recent report showing the progress made, see Reports presented for consideration at the Fiftieth Annual Meeting of the Illinois State Bar Association, 1926, p. 66; also Illinois State Bar Association Reports for 1927, p. 298; 1928, p. 285 and 1929, p. 230. As indicated by the brief reports since 1929, substantially the same practice has continued, i.e., cooperation between the Associated Charities and the State Bar Association, whereby the Bar Association presents applications to the Charities in cases needing legal aid, and the Charities, in turn, refer the application to some local attorney appearing upon the list furnished. For a consideration of the Michigan plan see the Report of the Committee on Legal Aid, 12 Michigan State Bar Association, p. 66, 1933. For a further discussion of the Illinois plan, see Annals of the American Academy of Political and Social Science, Vol. 124, page 148, The Illinois Plan by Joel D. Hunter. For a description of the California Plan, see California State Bar Journal, Vol. 8, p. 76 and following.

<sup>16</sup> The plan in effect in Connecticut is described in the Annals, Vol. 124, page 152, The Connecticut Plan for Legal Aid by Thomas Hewes. For a state-wide act in Pennsylvania, see Act of June 29, 1923, conferring upon cities of the second class power and authority to create and conduct, as part of the legal department, a bureau of conciliation, small claims and legal aid.

<sup>17</sup> The plan in effect in Seattle, Washington, is described in a Report of the Legal Aid Committee of the Washington State Bar Association.

The plan in effect in Wheeling, West Virginia, is described in a report to the West Virginia Bar Association, 1933.

The plan in effect in Jacksonville, Florida, is also of this sort. The writer has copies of these plans in manuscript in his possession but cannot find a citation indicating their publication. For description of legal aid machinery established in Chester, Penna., see 40 Reports of the Pennsylvania Bar Association, p. 221 at p. 225.

arranging for financial support. Finally, local organizations have joined together in state legal aid associations.<sup>18</sup> In New York, Pennsylvania,<sup>19</sup> and Ohio<sup>20</sup> the state associations are not now active. The West Coast Conference of Legal Aid Organizations<sup>21</sup> holds annual meetings for the purpose of stimulating interest in legal aid work and developing largely in California new agencies in the smaller centers. In Massachusetts there is also an active Association.

*Discussion of the various plans.*

There is much that is admirable in all of these plans. Evidences of practical idealism on the part of the Bar deserve the commendation of all thoughtful persons. The devotion of individual lawyers and others interested in the work has received all too little recognition. However, the results if viewed from the standpoint of continuous, comprehensive efficient service to the individual applicant are not always equal to the hopes of the originators. Criticism of the existing machinery if done with understanding and sympathy may

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<sup>18</sup> The New York State Legal Aid Organization was established in 1927, but within the next year or two became inactive. Some statement as to its operation will be found in the Reports of the New York State Bar Association for the year 1927, page 134 at page 141 and page 169 and page 300.

<sup>19</sup> The Pennsylvania State Association of Legal Aid Organizations is described in 25, the Legal Aid Review, No. 1, page 1, January 1927. A further statement as to its progress will be found in the Reports of the Legal Aid Committee of the Pennsylvania Bar Association for 1929, page 97, but it also has become inactive. For further material, see Vol. XIII, Collected Legal Aid Papers, page 2.

<sup>20</sup> The Ohio State Association of Legal Aid Organizations was in existence in 1926 and 1927. It has held no meetings since and has not published a report of its proceedings.

<sup>21</sup> The first meeting of the West Coast Conference of Legal Aid Organizations was held in Los Angeles, Dec. 20, 1929. Since that time there have been annual meetings. These are referred to in the Reports of the Legal Aid Committee of the California State Bar Association. The Proceedings of the first meeting were published by the Southern California Legal Aid Clinic Association in pamphlet form, 1929.

<sup>22</sup> This organization functions through the Boston and Springfield Societies with a group of attorneys in nearby cities who volunteer their services.

The work of the Legal Aid Committees of other State Bar Associations also deserve comment, although it is not so definitely directed toward handling specific cases. See the following: Report of Committees of the National Association of Legal Aid Organizations for 1933-1934, pages 43, 44, 45.

be of value. The basis of discussion should be a comparison with a first class legal aid society.<sup>23</sup>

The constitutional guarantee of the equal protection of the law is of little practical avail unless the individual in spite of his poverty has ready access to the services of a competent lawyer,<sup>24</sup> who can afford the time for conferences, investigations, explanations, adjustments as well as litigation. If the lawyer has a sympathetic attitude toward clients afflicted with poverty the service is improved. Efforts to supply such a lawyer are effective under certain conditions.<sup>25</sup> Experience indicates organized rather than unorganized aid, a paid staff as against a volunteer group. The older and stronger legal aid agencies all are incorporated and maintain a paid staff.<sup>26</sup>

1. There are four factors present in a successful legal aid organization emphasizing the need for a fundamental definiteness. These are (a) a definite place where the work is done, (b) a definite time when the service is available, (c) a definite person with whom the confidential relationship of attorney and client may be established, and (d) a definite advisory<sup>27</sup> body to aid in interpreting the work to the community, and in determining policies. Any plan which fails to include these four elements in some reasonable degree, falls short of complete effectiveness.

2. Again in many volunteer legal aid committees there is a distinct lack of continuity<sup>28</sup> in the work. One should not

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<sup>23</sup> For a well-rounded description of a legal aid society including a statement of its goal, see John M. Maguire, "The Lance of Justice," Harvard University Press, 1928.

<sup>24</sup> For a statement of the need by a poor litigant of a lawyer in legal proceedings and a criticism of the existing devices for supplying such service, see Willoughby, "Principles of Judicial Administration," The Brookings Institution, Washington, 1929, Chapt. 41, p. 476 and following.

<sup>25</sup> See Reginald Heber Smith, "Justice and the Poor," *Supra*, Chap. 6, "The Third Defect; Expense of Counsel."

<sup>26</sup> See the annual reports, for example, of the New York Legal Aid Society in which the details of the staff and the financial statement of the organization are included.

<sup>27</sup> The National Association of Legal Aid Organizations has adopted as a Standard the following: "Every Legal Aid Organization should: (1) Have, except in the case of municipal bureaus and legal aid clinics, a Board of Directors which fairly represent the legal and social welfare interests of the community and meet at least quarterly."

<sup>28</sup> The Report of the legal aid activity, for example, in Wheeling, indicates occasional gaps in the continuity. See Note No. 10, *supra*.

criticize the individual lawyer for this because there are hundreds of other perfectly legitimate demands upon his time. After all, the responsibility for gratuitous service is not so much for the individual attorney as for the organized bar. Gaps in the continuity and fluctuations in the quality of the aid tend to destroy prestige and public confidence.

3. Where the contact of the volunteer legal aid lawyer with the legal aid client is based on three or four cases a year there is little opportunity for the attorney to see the extent and nature of the social implications of the problem. This limited horizon restricts the service to the remedial rather than the preventive field. The legal aid attorney in the highly specialized legal aid organization handles even in the smaller cities several hundred clients and cases in the course of a year<sup>29</sup> and thereby is driven to generalize from more adequate premises toward an inclusive flexible solution. One may collect wage claims and defend the victims of loan sharks for years when the problems might more readily be solved by the use of legislation rather than litigation.

To suggest the above weaknesses in the volunteer system is not to overlook its real value. Often the only way to secure a more adequate organization is through the community education which accompanies the effort of public spirited volunteers. Our goal, however, is a machinery which, in fact, will give the poor man with a legally meritorious case as good

<sup>29</sup> The Report of the Legal Aid Committee of the American Bar Association for 1934 appearing in the Advance Program at page 153 shows the following volume of business passing through the legal aid offices since 1920:

<i>Year</i>	<i>Number of New Cases</i>	<i>Amounts Collected for Clients</i>	<i>Operating Expenses</i>
1920	96,034	\$389,835	\$226,079
1921	111,404	456,160	282,359
1922	130,585	499,684	328,651
1923	150,234	498,846	331,326
1924	121,177	662,675	348,290
1925	143,653	675,994	408,576
1926	152,214	645,991	369,264
1927	142,535	719,643	387,331
1928	165,817	645,435	461,557
1929	171,961	802,328	464,420
1930	217,643	886,447	546,803
1931	227,471	674,122	538,199
1932	307,673	815,440	596,941
1933	331,970	727,499	481,756



service as any other law office would do and render this quality day in and day out to each one of the multitude of legal aid clients. Experience points to the organized society as the better solution.

We may therefore conclude that there are required in the legal aid organization designed to meet the needs of the small community, as well as in the large city, the three fundamentals of definiteness, continuity of work and opportunity for social vision.

Viewing the situation from a practical standpoint and recognizing the expense of maintaining paid service over a large geographical area one is inclined to suggest a combination of the plans for volunteer and paid work. A strong central body in each state with a series of closely integrated volunteer committees in the various districts would insure personal relationship of attorney and client and a device for definiteness, continuity and vision. Organizations approaching this system are in operation in Massachusetts and North Carolina.<sup>30</sup>

Attention should be directed to the central office. The central office for such state-wide service is like any other legal aid society. But a legal aid society is not exactly like any other law office.

#### *A Description of a Legal Aid Office.*

In general a legal aid office is the same as any other large active law office in general practice. It differs in the following respects. It has more clients.<sup>31</sup> It deals with one

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<sup>30</sup> The Legal Aid Clinic at Duke University publishes an Annual Report beginning with the year of 1932. Detailed explanation of its work is contained therein. See also the Report of the Legal Aid Committee of the North Carolina State Bar Association, Vol. 35, page 77, (1933) and 36 id. 39 (1934) where it is urged that there should be a more elaborate state-wide system.

<sup>31</sup> The Reports of the Legal Aid Committee of the Pennsylvania Bar Association for the year 1934 contains the following figures of cases handled by legal aid organizations during the year 1933. See following chart:

**STATISTICS OF LEGAL AID WORK IN THE UNITED STATES FOR  
THE YEAR 1933**

Member Organizations in the National Association of Legal Aid  
Organizations

Date Foun.	Name of City	Popula- tion	New Cases Handled	Collected for Clients	Gross Cost of Opera- tion	Fees and Comm.
1923	Albany .....	120,000	966	7,458.56	4,019.93	260.26
1929	Baltimore .....	850,000	4,564	.....	11,000.00	458.00
1900	Boston .....	2,000,000	11,935	82,660.43	41,360.84	15,672.38
1918	Bridgeport .....	146,000	731	4,386.46	4,325.00	none
1912	Buffalo .....	762,408	8,355	8,043.48 <sup>o</sup>	26,862.75	1,082.19
1914	Cambridge .....	115,000	689 <sup>s</sup>	2,666.77 <sup>s</sup>	1,018.04 <sup>a</sup>	77.77 <sup>a</sup>
1886	Chicago LAB .....	4,955,000	24,337	2,666.77	1,018.04	77.77
1903	" JSSB.....	275,000	1,015 <sup>t</sup>	9,677.88	( <sup>2</sup> )	none
1908	Cincinnati .....	464,060	6,942	4,784.06	10,122.16	783.32
1905	Cleveland .....	1,250,000	8,560	6,264.33	16,685.90	576.50
1927	Dallas .....	.....	3,003	22,000.00	3,300.00	.....
1924	Denver .....	300,000	1,978	.....	4,378.88	165.66
1919	Detroit .....	1,500,000	29,284	57,127.00	17,818.00	3,922.97
	Duluth.....	.....	2,263 <sup>t</sup>	1,626.34	.....	.....
1931	Durham .....	62,000	302	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )
1921	Grand Rapids..	168,592	1,185	1,983.40	2,094.00	160.05
1917	Hartford .....	164,072	1,593 <sup>s</sup>	321.00	1,350.00	none
1921	Jacksonville ..	.....	241	.....	66.07	.....
1929	Los Angeles ....	1,500,000	2,340	6,000.00	6,288.00 <sup>o</sup>	.....
1921	Louisville .....	360,000	11,302	42,342.86 <sup>1</sup>	8,780.25	267.03
1929	Madison .....	112,738	400	( <sup>2</sup> )	516.00	none
1924	Memphis .....	.....	.....	.....	.....	.....
1916	Milwaukee .....	766,100	1,828	2,506.29	5,613.00	none
1912	Minneapolis ..	475,000	2,302	2,231.09	7,732.24	103.91
1930	Montreal .....	200,000	1,179	25,350.00	7,200.00	none
1923	New Bedford....	.....	.....	.....	.....	.....
1927	New Haven.....	162,655	3,614	1,453.82	1,860.00	none
1876	N. Y. LAS.....	7,000,000	34,906	122,507.74	124,108.18	21,269.28
1911	" NDB.....	7,000,000	900	.....	16,718.02	none
1902	" Ed. Alli.....	.....	3,137	17,996.66	6,003.03	.....
1929	Oakland .....	474,434	2,269	250.00	2,939.60	none
1920	Philadelphia ..	.....	3,562 <sup>11</sup>	5,780.59	.....	.....
1908	Pittsburgh .....	1,374,622	4,538	6,148.66	12,627.98	none
1921	Providence .....	295,892	1,435	1,800.00	5,724.74	none
1010	Rochester .....	350,000	3,521 <sup>o</sup>	31,514.77	11,153.23	219.64
	Salt Lake City ..	.....	482	( <sup>2</sup> )	1,110.37	.....
1915	San Francisco..	600,000	4,193	4,263.67	7,136.41	none
1925	Springfield ..	.....	2,993	23,000.00	6,500.00	none
1912	St. Louis .....	821,960	25,200	18,000.00	7,321.00	none
1907	St. Paul.....	271,606	1,236	( <sup>2</sup> )	5,173.00	5.00

<sup>1</sup>Including money released on garnishments.

<sup>2</sup>No record kept.

<sup>3</sup>Covers period from Oct. 1932 to Oct. 1933.

<sup>4</sup>Covers period from June 1, 1932, to June 1, 1933.

<sup>5</sup>Estimated overhead received from University—\$1,200.00.

Amount of case expended for operation..... 5,088.00.

<sup>6</sup>Period from Apr. 1, 1933 to Apr. 1, 1934.

<sup>7</sup>Period from Jan. 1, 1933 to Dec. 31, 1933.

<sup>8</sup>Period from Aug. 1, 1932 to July 31, 1933.

<sup>9</sup>Collection of fees began Mar. 1, 1935.

<sup>10</sup>Compensation awards obtained \$297,589.03 in addition.

<sup>11</sup>Covers four month's period.

STATISTICS OF LEGAL AID WORK IN THE UNITED STATES FOR THE YEAR 1933—(Continued)

NON-MEMBERS

Date Foun.	Name of City	Population	New Cases Handled	Collected for Clients	Gross Cost of Operation	Fees and Comm.
1924	Atlanta .....		3,089	24,137.94	6,274.19	none
1914	Dayton .....		4,200	950.00	2,443.00	none
	Erie .....		110 <sup>3</sup>			
1929	Harrisburg .....		111 <sup>1</sup>			
1910	Kansas City ....	399,746	9,199	14,032.25	6,500.00	none
	Los Angeles— civil cases					
	City Defender..		15,690			
	County Defender .....		41,516	41,060.62		
1901	Newark .....		4,938	3,892.46	4,618.54	none
1913	New Orleans....	485,000	652	1,242.35		
1928	Reading .....		315			
1932	Washington ...		803			
1932	Wheeling .....		134 <sup>4</sup>			

<sup>1</sup> 11 months.

<sup>2</sup> From Nov. 1, 1932 to Oct. 19, 1933.

<sup>3</sup> From Mar. 1, 1935 to Jan. 1, 1934.

PUBLIC OF VOLUNTARY DEFENDERS

1928	Cincinnati .....	464,060	1,664			
1015	Hartford .....	175,000	200 <sup>3</sup>			
1915	Los Angeles— criminal cases					
	City Defender..	293,329	24,707		13,972.00	none
	County Defender .....		2,608			
1917	New York City .....		1,151	( <sup>4</sup> )	( <sup>4</sup> )	
1927	Oakland .....	474,434	603 <sup>2</sup>	none	11,325.00	none
1918	San Diego .....	200,000	1,000		2,484.00	

RECAPITULATION

Member Organization .....	219,280	642,185.56	434,139.69	48,480.12
Non-Member Organizations....	65,067	85,315.62	19,835.73	none
Public or Voluntary de- fenders .....	47,623		27,781.00	none
Totals.....	331,970	727,501.18	481,756.42	48,480.12

<sup>2</sup> Only criminal cases handled. Advice only given in civil matters.

<sup>3</sup> This figure is approximate.

<sup>4</sup> These figures included in figures of N. Y. L. A. S.

class of persons in the community.<sup>32</sup> But in addition to individuals it serves social welfare agencies on behalf of their

<sup>32</sup> As an example of this jurisdiction see the following excerpt of the Constitution of the New York Legal Aid Society:

"The purpose of this society shall be to render legal aid gratuitously, if necessary, to all who may appear worthy thereof, and who are unable to procure assistance elsewhere, and to promote measures for their protection."

clients.<sup>33</sup> It declines to serve applicants who can pay a fee, and will not handle cases where the litigation may raise up a fund out of which a fee could be paid. Local policy occasionally dictates other limitations.<sup>34</sup>

<sup>33</sup> The National Association of Legal Aid Organizations has adopted inter alia the following Standards and Ideals:

STANDARDS:

"Every legal aid organization should: \* \* \*

"4. Maintain an active and friendly relationship with other social agencies. \* \* \*

"12. Have a social worker or an investigator on its staff, or have available through other agencies facilities for a proper social and economic investigation of those cases where the need arises.

"13. Seek and maintain active membership in any local or state council, or other central planning group, of social agencies.

"14. Make use of the social service exchange when and where its work will benefit thereby and register its own cases therein when it is of distinct community advantage so to do and where it will not violate the confidential relationship of attorney and client."

IDEALS:

"Every legal aid organization should, as far as local conditions permit, endeavor to— \* \* \*

"7. Act in an advisory capacity to social agencies relative to the legal problems which they face whenever requested to do so.

"8. Secure desirable legislation in its own community or state legislature when in aid of its purposes."

<sup>34</sup> The National Association of Legal Aid Organizations has adopted the following Ideals:

"Every legal aid organization should, as far as local conditions permit, endeavor to

"1. Provide for legal aid in criminal cases where there is no statute providing for the assignment of counsel for a public defender, or where the circumstances are such that the defendant cannot obtain proper representation in any other way. \* \* \*

"10. Accept divorce cases on behalf of indigent persons, whether plaintiffs or defendants, in those instances in which there are social reasons which appear to make such an action both necessary and desirable from the standpoint of the client as well as of the family.

"1. Accept bankruptcy cases on behalf of indigent persons in those instances in which the client has a reputation for honesty and has made every reasonable effort to pay his just debts, but in which creditors have refused to cooperate in any reasonable plan of payment and have persisted in harassing the client by attachment of his wages and by other proceedings to such an extent that he is in danger of losing his employment; that bankruptcy proceedings be undertaken, however, only as a last resort, and after all other attempts in the way of conciliation or otherwise have failed to protect the client from the unreasonable collection practice of his creditors.

The office<sup>35</sup> space varies in accordance with the volume of business and finances. A reception room with a registration clerk and a private conference room for interviews is usually the minimum.<sup>36</sup> In the larger cities there are sometimes a library, extra space for clerical assistants, additional conference rooms.

The staff may consist of a lawyer and a clerk—sometimes both on part time. Whatever its size it is organized to meet three separate types of application. About fifty per cent of the applicants for legal aid require legal advice and nothing more;<sup>37</sup> another forty per cent want service of a sort included in the term "office practice"; a final ten per cent require litigation, legislation or other highly specialized care perhaps in some other professional field. Where the size of the staff permits a division of labor the front desk department handles

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"12. Except for good cause in individual instances, accept personal injury cases in which the client is unable to pay any fee and in which the amount of recovery is not sufficient to induce a reputable attorney to accept the case on a contingent basis.

"13. Defend indigent defendants in both felony and misdemeanor cases in the following instances:

"Where there is no statute providing for the assignment of counsel or for a public defender, or where the circumstances are such that the defendant cannot obtain proper representation in any other way; provided the budget and facilities of the legal aid organization permit of such representation as well as representation in other types of cases."

<sup>35</sup> The National Association of Legal Aid Organizations has now in process of preparation a Handbook for use by persons desiring to establish a new legal aid organization. This volume contains an elaborate discussion of office routine, personnel, finances and similar matters. With regard to questions of policy the National Association in 1930 published a Handbook summarizing the results of its activities during the preceding nine years, and crystallizing many rules which experience indicates are of value.

<sup>36</sup> The National Association of Legal Aid Organizations has adopted as two of its Standards the following:

"Every legal aid organization should: \* \* \*

"2. Have enough space in the legal aid office to provide for private consultation between the attorney and client.

"3. Have on the legal staff as a minimum the equivalent of at least one full-time attorney."

<sup>37</sup> In 1933 which is the last year for which figures are available the percentages of the cases disposed of by advice, by the inclusive phrase of office practice, and by litigation are as follows:

<i>Advice</i>	<i>Office Practice</i>	<i>Litigation</i>
48.10	43.41	8.49

advice and office practice. In some of the larger offices there are specialists in the field of litigation.<sup>38</sup>

### *The Financial Problem.*

Probably the largest factor militating against the further extension of organized legal aid work is the expense of operation.<sup>39</sup> Figures collected by legal aid organizations indicate that the public is gradually increasing its confidence and therefore its financial support;<sup>40</sup> but the problem is still present.

Legal aid organizations traditionally have secured their funds from both public and private sources. The municipal bureau,<sup>41</sup> first established in Kansas City in 1910 and copied in several other cities, has met with varying success. It combines ready accessibility to the legal aid client who usually thinks of the administration of justice as a publicly supported function, with the danger of loss of a trained staff because of political upheaval and the tendency to fall into a spiritless routine, characteristic of many public offices where highly specialized work should be done. The private corporation

<sup>38</sup> The National Association of Legal Aid Organizations has adopted the following Ideals:

"Every legal aid organization should, as far as local conditions permit, endeavor to \* \* \*

"2. Have some member or members of the office staff whose special business it is to investigate and handle workmen's compensation cases, where not acceptable to the Bar and representation is needful.

"3. Establish contacts with the sources of legal aid cases where essential to adequate service of special type of clients such as workmen's compensation cases, seamen's cases, veteran's cases."

<sup>39</sup> For a discussion of the problem of finances, see Vol. 145 of the *Annals*, September 1929, page 143, "The Problem of Financing Legal-Social Work," by Williams J. Norton. See also the Annual Reports of the National Association of Legal Aid Organizations-Committee on Financial Accounting.

<sup>40</sup> See Note 22 *supra* for an annual statement of finances available both from contributions and from fees and commissions where such are charged.

<sup>41</sup> For a description of a municipally supported bureau, see Vol. 124 of the *Annals*, *supra*, page 42, "The Philadelphia Legal Aid Bureau of the Department of Public Welfare," by Romain C. Hassrick. This Bureau came to an end on January 1, 1932, when City Council failed to make an appropriation for its continuance. The work in Philadelphia is now being maintained by the Legal Aid Society of Philadelphia, a private corporation. See also *id.* page 48, "St. Louis Municipal Legal Aid Bureau," by Forrest C. Bonnell.

(the first example was the New York Legal Aid Society <sup>42</sup> established in 1876), which raises funds by solicitation from the general public represents the traditional method. The private corporation which draws its revenue as a member of the local community chest is a frequent form.<sup>43</sup> In at least one instance the income of a trust fund is made available.<sup>44</sup> Among the newer sources of income are the law schools which through their legal aid clinics supported in whole or in part by university funds combine the two goals of service to the community and of legal education.

How much it costs to operate a legal aid society is a question to be answered locally. Figures are available showing total costs and average costs per case,<sup>45</sup> but unless they are viewed in the light of local conditions they are likely to be quite misleading. The subtle temptation to consider them from the comparative standpoint should be resisted. The recognition of the need has exceeded the financial support available. So proponents have sought new uses for the legal aid idea which would enable them to create new societies even though the functions do not lie exclusively in the field of public service. It was such efforts that brought about an increased interest in the legal aid clinic.

#### *The Use of Law Students in Connection with a Legal Aid Organization.*

There is much to be said in favor of the idea that students in all professional fields and particularly in the field of law should have clinical as well as class room and laboratory

<sup>42</sup> The New Legal Aid Society publishes an Annual Report describing its routine work. The legal aid societies in New York, Philadelphia, and Boston are examples of this type.

<sup>43</sup> The Legal Aid Societies in Buffalo, Cleveland, Detroit, Minneapolis, Rochester and elsewhere are examples of this type.

<sup>44</sup> The San Diego, California, legal aid society is supported in part by the income from a trust fund.

<sup>45</sup> The figures showing total costs for 1933 are included in the footnotes 24 supra. The average cost per case for that year is as follows:

<i>No. Cases</i>	<i>Gross Cost of Operation</i>	<i>Average Gross Cost per Case</i>
212,138	\$454,731	\$2.14

One may estimate an average somewhere between \$2 and \$5 a case, depending upon local conditions, volume of cases and the extent to which free services have been secured.

training to develop their skill and idealism for service to the public.<sup>46</sup> Other law courses inculcate a devotion to the ideals of scholarship. But a lawyer's duty is said to be four-fold; to the client, the court, the profession and the community.<sup>47</sup> It requires special training to develop interest toward the latter. Numerous devices are employed and with varying success.<sup>48</sup>

There are four different classifications for the existing experiments in the field of legal aid clinics.<sup>49</sup> They are arranged here on the basis of the extent of law school control.

The least formal efforts are those made at such law schools as Pittsburgh, Stanford and Yale.<sup>50</sup> There law students because they are interested go to the office of the local legal aid organization, and without law school credit and with only such incidental supervision as the attorney in the legal aid office can give, perform services which may legally be performed by persons not admitted to the Bar.<sup>51</sup>

<sup>46</sup> There is no complete bibliography of material on this subject. One suggests the following articles: Jerome Frank, "Why not a Clinical Lawyer School," 81 *University of Pennsylvania Law Review*, June, 1933, pp. 907-923; Gardner, "Why not a Clinical Lawyer School—Some Reflections," 82 *University of Pennsylvania Law Review*, 785, 1934; Alfred A. Reed, "The Missing Element in Legal Education," *Annual Review of Legal Education Carnegie Foundation*, 1929, page 32; James G. Roger, "Are Law Schools Adequately Equipping for the Profession," *Volume 3, No. 5, The Bar Examiner*, March 1934, page 106.

<sup>47</sup> Warvelle, *Legal Ethics*, 2d. ed. (1920) p. 21.

<sup>48</sup> For a discussion of some of these, see Reed, "The Missing Element in Legal Education," *supra*. See also D. Bruce Mansfield, "Law Student Bar Association," 8 *Los Angeles Bar Association Bulletin*, (Feb. 1933) pp. 179-180; Gordon E. Dean, "Bar Association and the Law School Student Body," 7 *Amer. Law School Review* (Dec. 1931) p. 316.

<sup>49</sup> For a consideration of the term Legal Aid Clinics, See John M. Maguire, "Legal Aid Clinics; a Definitional Comment," 7 *Amer. Law School Review*, 1151, May 1934.

<sup>50</sup> This statement is made on the basis of correspondence in the hands of the writer.

<sup>51</sup> The right of a law student to practice law has been considered in various ways. Massachusetts has solved the problem by legislation permitting law students to practice. See *Massachusetts General Laws*, chapter 221, sect. 46 relating to such privileges of attorneys in fact and section 47 relating to such privileges of charitable corporations. In North Carolina a section of the Act prohibiting unauthorized persons from practicing law exempts law schools operating legal aid clinics. See *North Carolina Act of 1931, C 157; S 5, C 347*.

See also statement by W. S. Taft chairman, New York State Bar Association Committee on ethics in January 1934 issue *New York State Bar Bulletin* on rights of a law clerk.



Next in the order of complexity is the Harvard Legal Aid Bureau<sup>52</sup> where students selected because of their academic standing have full control. They are assisted by advice from an attorney and they cooperate with the Boston Legal Aid Society; but the office is their own office; the organization is a student organization. There is no law school credit for the work. It falls within the honor category such as work on the law review.

A third method which we may describe as one of mutual cooperation exists in such law schools as California, Cincinnati, Louisville, Minnesota, Northwestern and elsewhere.<sup>53</sup> There the clinic work is on the basis of a regular course or a part of a regular course in the law school curriculum, but the cases are disposed of under the immediate supervision of the local legal aid society. The students travel from the law school building, sometimes a distance of several miles, to the office of the local legal aid society and under supervision of the legal aid attorney handle cases. Returning to the law school they participate in class room conference with a member of the law school faculty regarding the work done.

The last stage in this classifications is illustrated by the structure of the organizations at the University of Southern

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See also brief prepared by J. Paul Coie in case No. B-20 Duke legal Aid Clinic on the confidential nature of communications made to a student by a client.

<sup>52</sup> The Harvard Legal Aid Bureau publishes an annual report of its activities in which its operation is described. See also Tilford E. Dudley, "The Harvard Legal Aid Bureau," 17 A. B. A. Journal, 692 (1931). See also paper read by William Piel, Jr., before the meeting of the Association of American Law Schools, Chicago, 1934, "The Student Viewpoint Toward Clinic Work."

<sup>53</sup> The operations at the University of California are described in "Law Student and Legislation," by Robert E. Stone, Volume 7, The American Law School Review, p. 1138. On the Minnesota work, see M. U. S. Kjorlaug, "The Legal Aid Clinic of the Law School of the University of Minnesota," The Annals, Volume 124, March 1926, page 136; also John H. Wigmore, "The Legal Aid Clinic; What it does for the Law Student," The Annals, Volume 124, March 1926, page 130. See as to Cincinnati, a note on Legal Aid Society of Cincinnati, University of Cincinnati Law Review, Vol. III, No. 2, March 1929, p. 165. (See page 13-a following). Miss Nellie MacNamara of the Northwestern Legal Aid Bureau Staff read a paper before the Association of American Law Schools, Chicago, 1934 on the work of the North Western Clinic—Still in mss.

California<sup>54</sup> and Duke University<sup>55</sup> where the clinic office is in the law school building; the course is a required law school course and the Director of the Legal Aid Clinic is a member of the law school faculty. In these cases the university supports in whole or in large part the enterprise and commits itself to the same sort of public service endeavor in the legal field as is customary where a medical school operates a free clinic for persons with physical ailments.

It is too soon to offer a final criticism of these various systems.<sup>56</sup> Local conditions make comparison difficult. It would, however, appear that the more the enterprise is a law school function the greater consideration will be given to the factor of legal education. A legal aid society seeks primarily a public service goal. A legal aid clinic balances this with an educational objective. A successful clinic can hardly be operated unless the student is thought of as important a part of the work as the client. It is an interesting administrative task to keep this balance.

*What the Law Student is Expected to Learn.* •

Fundamentally clinic work is training in "what to do" with an actual situation rather than a course in "what is the law." It deals with the lawyer's mental process and thereby supplements the usual class room procedure which emphasizes by its use of case material the judicial mental process and the scholar's mental process. A lawyer deals with prob-

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<sup>54</sup> The structure of the Organization of the University of Southern California is described in a number of places. The most recent is the University of Pennsylvania Law Review, Volume 82, No. 1, November 1934; "The Clinical Lawyer-School; The Clinic," by Leon Thomas David. The footnotes to this excellent article give a large number of references to the literature on the subject.

<sup>55</sup> A number of articles dealing with the work of the Legal Aid Clinic at Duke University and at Southern California will be found in the notes to a paper by the writer in 1 University of Chicago Law Review 469 (1934).

<sup>56</sup> There is a Round Table on Legal Aid Clinic work in the Association of American Law Schools. At the 1933 meeting a paper was read by Joseph A. McLean, Jr., before this Round Table on "Some Practical Problems to be Considered in Undertaking Clinical Work in Law Schools Located in Small Communities," 7 American Law School Review, 1147.

lems of marshalling facts, initiating and considering hypothetical goals for the client, creating out of material supplied by lay minds a structure which he hopes will hold good in the field of legal reasoning. The lawyer plans and conducts a campaign. On the other hand, the judge is engaged in weighing considerations and reaching a decision. The legal scholar emphasizes a critical analysis of the results of the lawyer's and judge's work with respect to a field of legal thought. The foregoing division of mental fields is not clear-cut in practice. All three contribute to the complete process of legal thought and their activities overlap. But the student, unless his attention is specially directed does not see the beginning of the process with which as a practicing attorney he is to spend so much of his time.

Training in the lawyer's mental process involves supplying the student with experiences which a lawyer should have and which are not included in the material which is the basis of the case method, the lecture method or the seminar method of instruction. These are based upon the printed page. The clinic work deals with the living case as the client presents it. This is not the same as the more thoroughly organized case as it appears to the judge or to the legal scholar after it has been reduced to printer's ink on a white page. In another way the clinic work exposes the student to the unexpected. In the ordinary course in law school he may predict with reasonable certainty that reading a certain number of pages a day as a routine and an annual review will prepare him for his examination. He may budget his time. In the clinic work a situation calling for his best efforts may arise at any hour of the day (and night).<sup>57</sup> The most important case a student handles may be the first one he meets. The volume of work is not divisible into convenient daily segments nor may he postpone work on a case till along toward the end of the year. But this very unevenness is a stimulating challenge to his adaptability.

<sup>57</sup> See, for example, case No. 573 of Duke Legal Aid Clinic where the client arrived for a first consultation at the home of the director at twelve o'clock on a Saturday night and departed at two thirty Sunday morning.

In its elementary aspects<sup>58</sup> the clinic exposes the student to certain routine matters which a lawyer should learn in his first two or three years and which may be given to him, under supervision, more quickly, thoroughly and adequately in a law school course than in many a law office.<sup>59</sup> So some time is given to such matters as the geography of the courthouse, the routine of an office system, the technique of making contacts with the community, the process of evaluating a lawyer's services when it comes time to send a bill for fees, the art of writing letters in a legal proceeding.

Fundamental as these matters are they do not by any means include all the possibilities of clinic training.

The course should provide a transition from class room to law office. It may be regarded as both a synthesis of the various rules of law taught in other law school courses and at the same time as an orientation in the field of practice. It is one way to encourage the student to look upon the law as of one piece rather than as a series of not clearly related courses. In a single clinic case rules taken from a dozen different fields of law and procedure may be needed. Acquiring experience in the art of weighing such considerations and focusing them on the solution of a given case for the benefit of a real client is possible. The contrast between this synthesis and the analysis of a case involves a fundamental adjustment of use to the law student.

Even the most comprehensive law school curriculum covers only a small number of the rules of law. Realizing that he cannot learn all the law, the student should develop a technique for meeting the unexpected. Hypothetical cases in the class room are one means to this end. An actual clinic case in some hitherto unknown field of law may give one an insight into a few more rules. Immeasurably more important

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<sup>58</sup> As there has been no standard outline for the work of a legal aid clinic, the accompanying discussion represents the writer's personal viewpoint.

<sup>59</sup> Law office training as a substitute for training in law schools is losing ground. "The Report of the California Survey Committee (1933) Published by the state Bar of California, p. 5; Alfred Z. Reed." Present Day Law schools in the U. S. and Canada Carnegie Foundation Bulletin 21 (1928) p. 13; Reed, Annual Review of Legal Education, 1929, pp. 28-31.

is its effect in developing a degree of mental maturity and judgment in making decisions under conditions of responsibility to a client.

The case method of study emphasizes the importance of the principle of law and introduces the student to a logical system of rules. In practice the human element in every case tends to interrupt the logical application of these rules. The lawyer who sees his clients as merely an algebraic symbol may produce brilliant scholarly work. He is not so likely to make a success of practice until he has learned how to allow for the uncertainties introduced to a law case by the presence of flesh and blood people. The clinic course forces the student to think of the client as a human being. To secure a satisfied client at the end of the case is a problem for the clinic student comparable to but not identical with that presented when he is trying to find at the end of his other courses an instructor satisfied with his work. While the instructor grades the student within predictable limits and according to a more or less clearly perceived standard the client is limited only by his own whim. To argue a need for the lawyer to learn how to deal with the personal desires of the client is not necessary. Experiences indicated that some whims of clients such as speed, accuracy, devotion to the client's interests, may be identified and emphasized to the student. Thus his clinic training offers an opportunity to enter a large field of study not available in the class room.

Legal ethics has been a problem in the field of education for which few effective solutions have been discovered. It is one thing to learn the principles of ethical conduct from a book. It is another thing to be able to diagnose and deal with a real problem of ethics buried in a real case. In the class room a decision in favor of "X" instead of "Y" will not land the student in the hands of a Grievance Committee. In the clinic the angry, suspicious, dishonest, mentally unbalanced clients who form a portion of every clinic clientele force every one connected with the work to remain constantly alert for fear an unethical step may be taken. Occasionally legal aid organizations receive from clients complaints against

lawyers or <sup>60</sup> deal directly with their own dissatisfied clients. Such a situation has a vividness without parallel in class room ethics courses.

The instructor learns about the student's adaptability, his dependability, his imagination or resourcefulness in the field of law, his ability to attend to details and office routine, the effectiveness with which he organizes material brought in by lay clients into a form on which a legal mind can function; his manner to clients, his manner to other members of the staff; the extent of his persistence in the face of obstacles or disappointing developments, and in connection with cases which to him are obviously uninteresting; the degree of quasi-judicial judgment which he exercises in making the decisions that are put up to him, and finally his sense of ethical values.

It is very unlikely that a man's character can be formed by making him take a course of legal ethics. It is quite possible, however, to render him sensitive to the presence of danger signals in a case and to secure much information concerning his character by watching his reactions under conditions which closely approximate those of actual practice, to endeavor to show him the ethical way of conducting a problem and to study him with understanding as he attempts to solve the perennial dilemma of maintaining a well known standard in the face of economic pressure. The results should be of interest to admissions committees of the bar.

Finally, the course in legal clinic work offers an opportunity to study that much neglected subject, the art of legal strategy. There are stages in a legal plan of campaign which may be crystallized into an orderly process and discussed. At each stage are present considerations to be developed by conference in seminar fashion.

A case in action involves consideration of eight points which may be briefly stated as follows: The process by which the client is brought to the office, the first interview, the ascertainment of the facts of the case, the translation of the facts into material which may be used as a basis for legal

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<sup>60</sup> During 1933, the last year for which figures are available, legal aid organizations reported to the national Associations of Legal Aid Organizations 1247 such cases.

thinking, the process of identifying the pertinent field or fields of law, the task of determining the goal to be sought in the proceeding, the determination of the means of reaching the goal, the working out of the plan of campaign in actual practice, and finally the effective closing of the case. A course in clinic work confined to a single year and to only an hour or two a week during that year can hardly hope to proceed further than a survey of this elementary step.

In advanced clinic courses one might teach the strategy of cases involving contract problems, tort problems, property problems and thus repeat on a different plane and with a new emphasis a consideration of all the fields of law now treated by the case method. The administrative difficulties of such a plan are obvious.

These five aspects of clinic work—routine of practice, a synthesis of law school work, contact with the human element, practical experience with legal ethics, and planning a legal campaign—involve student activity which requires them to study the lawyer's mental process, which produces material on which the judicial process may function, which in turn produces still other material to which scholars may direct their attention.

Obviously, to maintain the legal service at a high standard of effectiveness requires a degree of supervision. The law student who has been trained along lines of individualistic thinking, who need not ordinarily concentrate his attention on a course until the examination period arrives, and who has been delighting in those unique and highly exciting legal problems which have reached appellate courts comes to realize that the grist of any law practice consists of an infinite amount of routine, restrictive regulations, patient attention to detail. The student who sees such supervision only as a personal straight jacket misses its value as self-discipline.

In contrasting a legal aid society and a legal aid clinic the temptation is strong to regard both as exclusively public service organizations. This is unfair to the clinic. Its task in the field of legal education is well done when it presents for admission to the profession men with better technical

training and a more understanding grasp of ethical considerations. It cannot on that account neglect its duty to the clients.

The legal profession has need of lawyers, whose sense of responsibility to the profession and the public is as great as that to the client and the court. The legal aid movement needs much cordial support of the bar. The relationship between the bar and legal aid work deserves comment.

*Problems of Relationship between the Bar and the Legal Aid Organization.*

Nearly every legal aid organization owes its establishment to the enthusiasm and energy of a small group of people including prominently individual members of the bar who felt particular responsibility for the prestige which the profession enjoys at the hands of the community. A second stage in development arrived when the organized bar vouched for and gave its moral support.<sup>61</sup> A delay in the approach of the second stage may be explained by the lack of general understanding regarding the fundamental position of the work and a fear that it may be conducted in such manner as to offer competition with the bar for business.<sup>62</sup> Patience and an educational program will remedy this situation.

<sup>61</sup> In 1921 the American Bar Association appointed a Legal Aid Committee. In the same year a Legal Aid Committee of the New York State Bar Association was appointed. In 1923 the Legal Aid Committee of the Pennsylvania Bar Association was appointed. Some fifteen state Bar Associations have appointed Legal Aid Committees, many of which are now inactive. The most recent material on this subject is contained in the Report of the Secretary of the National Association of Legal Aid Organizations for 1934. A large number of local Bar Associations have legal Aid Committees.

<sup>62</sup> The following quotation from a letter received by the writer during the past year is of interest as showing this situation:

"I disagree with the Committee in finding that a need for legal aid exists and believe that the number of persons needing the aid and the seriousness of their problems is not sufficient for the Bar Associations of its own volition setting up an agency that even in a small degree would deprive the members of the Bar the opportunity of obtaining this business. It is a conceded fact that the lawyers, at least in the City of (.....) are every day in small matters and in large dispensing their time, ability and experience in the interests of clients from whom they know they will never receive compensation in any form.

"I think that the setting up of an agency at this time with conditions generally as they are would result, if the creation of the



Some lawyers have argued that the bar takes care of all legal aid work, and that an organization is superfluous. The evidence available indicates that in spite of legal aid societies there is still plenty of charity work for a lawyer to do and that most lawyers are greatly relieved to have such matters taken care of by an organization that specializes.<sup>63</sup> Established legal aid societies have all experienced the gradual growth of public understanding and by appropriate administrative rules have reduced the debatable matters to a minimum.<sup>64</sup>

Because legal aid work has definite jurisdictional limits dependent upon the financial condition of the client, there are always border-line cases to be decided. The majority

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agency were publicized, in an over-whelming number of persons seeking advice from the agency who could well afford to pay for the advices given. I firmly believe that it would be almost an impossibility for any legal agency short-handed in competent detectives to run down the financial status of the applicants to determine their financial ability to pay for legal services rendered. It is no part theory that large numbers of persons having assets in any form have gone to every extent to cover up those assets lest they be seized by their creditors. The person examining the applicant in my estimation would have to be an expert in carrying on a proceeding similar to a supplementary proceeding to determine truthfully the ability or inability of the applicant to pay for the aid requested. The Committee has suggested that a form be presented to the applicant to which a verification be attached. I do not believe that the necessity of taking an oath would discourage any person who intended to be untruthful to the agency."

The extent of legal aid need may be tested by setting up an organization and seeing how it operates. A single visit to an existing legal aid society will convince any reasonable person that the vast majority of legal aid cases are those of bona fide poor people.

<sup>63</sup> Many legal aid clients hesitate to go to an ordinary law office for service. Other arguments in favor of the organization are increased efficiency in handling large number of cases, the opportunity for keeping statistics of the work. The client should not be used as a means of unsupervised training of lawyers if the bar is to retain public respect.

For a picture of a Bar Association Committee working in conjunction with a legal aid organization, see Report of the Joint Committee for the Study of Legal Aid of the Association of the Bar of the City of New York and the Welfare Council of New York City, published privately, 1928. See also the Legal Aid Society, Office Regulations, Rule VIII; published Sept. 1934.

<sup>64</sup> For example the following legal aid organizations have codified their office rules: New York Legal Aid Society, Harvard Legal Aid Bureau, Cincinnati Legal Aid Society, Denver Legal Aid Society, Southern California Legal Aid Clinic, Duke Legal Aid Clinic, Boston Legal Aid Society.

of clients are obviously either within or without the line. In dealing with those that are not clearly one or the other there are four procedures which in practice have worked out effectively.<sup>65</sup> (a) The community is informed that applicants who can pay a fee and cases where a fee can be secured on a contingent basis will be declined. (b) This rule is enforced by a preliminary investigation to determine the applicant's financial condition. The nature and extent of this investigation varies with the individual and the case. (c) The organization invariably reserves the right to withdraw from the case at any time that a fee appears imminent. In several cities doubtful cases may be submitted to committees of local bar associations for an opinion. Some legal aid organizations are willing to allow any attorney to take from their files any case he wishes provided he will agree to do as good a job as the legal aid society would do. As evidence of the good faith in which these rules are administered, the records of legal aid societies disclose each year a large number of cases refused.<sup>66</sup>

Merely to refuse legal aid to an applicant does not answer the demand of such person for his legal rights. What to do with the individual who can pay a small fee even though it is disproportionate to the work involved is a further question for those interested in equal justice. The least effective solution is to hand him the telephone directory and tell him to make his own selection. Some lawyers specialize in cer-

<sup>65</sup> The methods described herein are used by a number of legal aid organizations. For an example of a set of rules describing this system, see: The New York Legal Aid Society, office Regulations, Rule 1 (d); published Sept. 1934.

<sup>66</sup> During the past ten years the records of the legal aid societies showed the following number of cases refused in each year:

<i>Year</i>	<i>Total Applications</i>	<i>Refused</i>
1924	121,177	5,851
1925	143,653	3,794
1926	152,214	4,394
1927	142,535	6,503
1928	165,817	8,027
1929	171,961	5,722
1930	217,643	6,527
1931	227,471	5,722
1932	307,673	7,408
1933	331,970	14,256

tain types of work and the directory does not disclose this. The incautious layman may fall into the hands of the shyster fringe of the profession. He may, and often does, lose his initiative and believing that he is being passed from one person to another makes no effort to find a lawyer. Such a man is likely to believe that there is one law for the rich and another for the poor. He may submit to injustice from a sense of despair.

A better solution provides the legal aid organization with a list of lawyers especially selected by the Bar Association. Cases are assigned in rotation or by some other method. The problem is to cover the field so that all persons may receive equal justice.

To this end the relationship between legal aid work and the bar is fundamental. The essential bond has been emphasized by leaders of the bench and bar.<sup>67</sup>

The fundamental principles of our democratic form of government are based on at least two propositions. Justice is a matter of right, not of grace. Before the law all men must be equal.<sup>68</sup> The legal profession<sup>69</sup> is charged with the

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<sup>67</sup> The Report of the Legal Aid Committee of the Pennsylvania Bar Association for the year 1934 contains several quotations from leading members of the Bench and Bar in support of Legal Aid Work, page 221 and following.

See also the Introduction to Maguire, "The Lance of Justice," by Wm. D. Guthrie; the foreword to the Report, cited supra, in footnote 51 by John W. Davis. At the 1934 Convention banquet of the National Association of Legal Aid Organizations held in New York City November 16, the speakers were: The Honorable Frederick D. Crane, Honorable Silas H. Strawn, M. W. Acheson, Jr., Honorable Thos. D. Talker, Chas. Evans Hughes, Jr., Allen Wardwell. Their remarks appear in the Legal Aid Review, Vol. 33, No. 1, Jan. 1935.

<sup>68</sup> See the index of State Constitutions prepared by the Legislative Drafting Research Fund of Columbia University, 1915, under the title "Administration of Justice."

<sup>69</sup> The responsibility of the lawyer in this mention arises first from the form of oath which he takes when he becomes a member of the profession. See 58 Reports of the American Bar Association, page 710 where the last paragraph of the oath recommended by the American Bar Association for admission to the Bar reads as follows:

"I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay any man's cause for lucre or malice. So help me God."

Second, from traditional elements derived perhaps from the Roman and Medieval ecclesiastical bars to aid without the payment of a fee and has been embodied in our common law by the pronouncements of

responsibility of making these political principles effective in individual cases. A system to provide a similar service and an equally fine type of justice to people who can pay little or no fee is logically the responsibility of the same profession. The legal aid movement as a part of the work of the organized bar <sup>70</sup> is a most important step forward in improving the administration of justice.

*The Extent of Legal Aid Problems.*

Legal Aid organizations of necessity have well defined geographical jurisdictional limits. Whether these limits be a city or a state, efficiency requires that where a case arises too far away to be dealt with adequately, it be declined. However, when a local client appears in the legal aid office with a case one portion of which may be settled locally and another portion requiring solution in some other part of the state or of the nation or in a foreign country, extra jurisdictional machinery is required.

To deal with these problems which arise in some volume <sup>71</sup> the legal aid organizations of the United States maintain an

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courts and text writers, for example Sharswood, in his *Legal Ethics* says:

“There are many cases in which it will be (the lawyer’s) his duty, perhaps his privilege, to work for nothing. It is to be hoped that the time will never come when this or any other bar in this country, when a poor man with an honest cause, though without fee, cannot obtain the services of an honorable counsel, for the prosecution or defense of his rights.”

For the religious sanction see the 82nd. Psalm *inter alia*.

<sup>70</sup> For pronouncements indicating that the American Bar Association has accepted the Legal Aid movement as a part of its activities, see the Reports of the Legal Aid Committee of the American Bar Association during the past ten years.

<sup>71</sup> The following figures, summarized from reports of the various Committees of the National Association, indicate the volume of business sent by one legal aid organization to another during each of the past seven years:

<i>Year</i>	<i>Cases Referred</i>
1927	786
1928	586
1929	736
1930	912
1931	830
1932	442
1933	756

informal system of cooperation one with another.<sup>72</sup> There is a National Association which acts as a clearing house.<sup>73</sup> There is also in process of development plans for international legal aid service.<sup>74</sup>

Legal Aid work in some of the European countries is more extensively developed than in the United States.<sup>75</sup> The ex-

<sup>72</sup> The matter is of such importance that at the 1934 convention of the National Association of Legal Aid Organizations the following resolution was adopted regarding inter-agency cooperating.

18. Resolved, That every Member Organization should cooperate in every possible way in handling meritorious cases referred to it from another member of this Association; that if the case can not be handled by the receiving Organization, a private attorney be secured who will accept the case, all necessity expenses to be defrayed by the forwarding Organization.

<sup>73</sup> The National Association of Legal Aid Organizations has a permanent office at Durham, North Carolina, and publishes its committee reports, the proceedings of its conventions and a series of bulletins dealing with legal aid topics. It was established originally in 1911 and reorganized in 1923. Its purpose clause reads as follows:

"The Objects and Purposes of this Association shall be to promote and develop legal aid work, to encourage the formation of new legal aid organizations wherever they may be needed, to provide a central body with defined duties and powers for the guidance of legal aid work, and to cooperate with the judiciary, the bar, and all organizations interested in the administration of justice."

<sup>74</sup> The National Association of Legal Aid Organizations has had a committee on International Legal Aid work for a number of years. Its reports will be found in the Volume of Committee Reports published each year by the National Association.

<sup>75</sup> In 1914 Arthur Von Briesen at the third conference of Legal aid societies held in Chicago presented a report to the association regarding a visit he had made to a convention of European legal aid societies in October 1913 called by the National Alliance of German Legal Aid Societies at Nurnberg, Germany. This is the first international convention of which the records speak. It was attended by 160 delegates from legal aid societies of Germany, Holland, Austria, Switzerland, Denmark, and America. The next international conference of which we have knowledge was held in Geneva upon the call of the League of Nations in 1924. It was described by Reginald Heber Smith in 124 *The Annals*, supra, p. 167 and following. In 1927 the publication by the League of Nations entitled "Legal Aid for the Poor," contained in 472 pages the results of a survey of the statutory regulations in the various countries of the world dealing with legal aid. In 1924 Mr. Set. Silo, Director for the Legal Aid institution of the city of Stockholm, prepared an article on "Free Legal Aid in Sweden," which is in the writer's possession in manuscript. Legal aid work in England is conducted by a committee of the Law Society.

For examples of the routine followed in England see rules of the Supreme Court (Poor Persons) 1925 which establish a set of instructions to applicants, an applications form. The work is operated by the Poor Persons Committee of the Law Society.

change of cases from a group of organizations existing under one system of law to a group of organizations under another system of law raises interesting practical and legal problems.

Experiments in the field of international legal aid work are going forward as rapidly as finances permit.<sup>76</sup> It is one of the unsolved problems in the field.

### *Conclusion.*

The foregoing general discussion suggests the following conclusions. There is a need for organized legal aid service in all cities with a population of fifty thousand or more persons. There is a need for organized legal aid work in smaller communities and in the rural sections of the various states. The machinery by which legal aid service is to be rendered in the smaller centers and in the rural districts at first glance differs materially from that set up in a large city. But in effect except for the problems of transportation, personal conferences and the securing and bringing home to the individual client knowledge of the existence of the service, the solutions are quite similar.

There are many examples of the local legal aid society. Among the experiments in state wide work the one which promises the most consists of a strong flexible central organization with a paid staff and branches consisting of volunteer committees strategically located.

A legal aid organization whether in a large city or in a rural community offers in addition to its public service aspects unusual and valuable training facilities for law students. The important problems confronting legal aid clinic work at the present time are, adequate supervision, a wide variety of material to be used for educational purposes, and an expert blending of the two goals of legal education and service to the client into a routine which gives the maximum of attention to both.

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<sup>76</sup> For an example of the way in which divorce cases involving international complications are handled by the Detroit Legal Aid Bureau through the International Migration Service with persons in foreign countries, see "Some Legal Aspects of International Case Work," by David W. Wainhouse, *The Family*, November 1933, Vol. 14, No. 7.

No matter how effective the local organization may be in its own geographical sphere the service rendered to the client is not adequate unless the local organization is related to other organizations elsewhere so that the problems of the clients may be taken care of no matter where they may be.

Legal Aid work is an important element in the field of the administration of justice and it deserves more support and more study than it has received in the past. While the public has an interest the prestige for legal aid work well done is due to the bar and the law schools. It is their task to lead in the formation of new societies and clinics. The result will more than compensate for the effort involved.

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