

June 2021

One-Third of the Nation Ill-Fed, Ill-Clothed, Ill-Housed, but Two-Thirds Ill-Advised

Dicta Editorial Board

Follow this and additional works at: <https://digitalcommons.du.edu/dlr>

Recommended Citation

One-Third of the Nation Ill-Fed, Ill-Clothed, Ill-Housed, but Two-Thirds Ill-Advised, 25 Dicta 297 (1948).

This Article is brought to you for free and open access by the Denver Law Review at Digital Commons @ DU. It has been accepted for inclusion in Denver Law Review by an authorized editor of Digital Commons @ DU. For more information, please contact jennifer.cox@du.edu, dig-commons@du.edu.

One-Third of the Nation Ill-Fed, Ill-Clothed, Ill-Housed, But Two-Thirds Ill-Advised?

Editor's Note: The report of the Colorado Bar's Legal Service Committee, which was presented to the Board of Governors at the October convention, has received so much comment that we are reproducing it in toto below, only slightly rearranged for purposes of publication. The committee was composed of Milton J. Blake of Denver, Chairman, Robert E. Anderson of Colorado Springs, Robert S. Gast, Jr. of Pueblo, Paul F. Ireby of Denver and Harold Taft King of Denver. No action was taken on the report at Colorado Springs, but at the meeting of the Board of Governors in Denver on December 3 it was decided that since Denver appeared to be the only city in the state to which the report seemed particularly applicable, it should be returned to the committee with instructions to work with the Denver Bar Association and its legal service committee in effecting such part of the recommendations as that association approves.

I.

Introduction

The work of the Legal Service Committee is divided into two phases: (1) The study of the problem of legal service to persons of moderate means and (2) the providing of legal assistance to servicemen and veterans. These two functions will be reported on separately below.

II.

Legal Service to Persons of Moderate Means

This committee has been engaged in the study of the problem of legal service to persons of moderate means for nearly two years last past. In previous reports, to which reference is hereby made, the committee has recounted its activities and stated its conclusions. To enable a proper understanding of the problem and to show the reasons for the recommendation made at the conclusion of this report, the former reports and the activities of the committee may be summarized as follows:

This committee was appointed to study this problem pursuant to a resolution adopted by the House of Delegates of the American Bar Association in October, 1946, which reads as follows:

"Whereas, the American Bar Association believes that it is the fundamental duty of the bar to see to it that all persons requiring legal advice be able to obtain it, irrespective of their economic status, and has recently approved and made an appropriation to increase the extent and efficiency of legal aid service in various parts of the country;

"Resolved that the association approves and sponsors the setting up by state and local bar associations of lawyers referral plans and low-cost legal service methods for the purpose of dealing with cases of persons who otherwise might not have the benefit of legal advice."

On its appointment, the committee first obtained all the information it

could from other parts of the nation regarding the various plans which have been adopted to handle this problem. A considerable amount of such material has been obtained and studied and digested by the committee at the several meetings it has held since its appointment. The Denver Bar Association, during this time, appointed a similar committee, the members of which have on occasion met with this committee.

The committee soon determined that the matter was very complex and that considerable study would be required of the various phases. This procedure was followed; and from the study made by the committee, the following statement regarding the problem has emerged:

Statement of Problem

Some attention was given to this problem before the war by the American Bar Association, but no particular action was taken. During the war the American Bar Association jointly sponsored, with the Army and Navy, a plan to make legal assistance available to servicemen and their dependents. This plan, which is continuing in operation on a permanent basis, proved very effective and beneficial and received the full support of state and local bar associations as well as lawyers generally. This work carried on by the War Work Committees of the bar is well known and need not be further described.

As a result of the experience gained in the operation of the legal assistance plan during the war, it became apparent to many members of the legal profession and those concerned in the Army and Navy that certain conclusions could be reached from this first experiment in mass legal service, some sixteen million cases having been handled under the plan during that period. It was thought that the persons served represented a fairly accurate cross-section of the American people and could thus be used as a basis for measuring the problem as applied to the whole. Subsequent studies have served to confirm this view.

It was found that from 10 to 20 per cent of these served could afford no lawyer's fees whatsoever, i.e., charity cases; that from 10 to 20 per cent could well afford lawyer's fees at the going rate; and that the rest, or 60 to 80 per cent, could pay something, but may be not the full going rate of lawyer's fees, and generally wished to pay a reasonable fee or as much as they could. In brief, this last group constitutes the basis of the problem and poses the question, "What is the legal profession going to do to meet the legal needs of this large segment of our population?"

The American Bar Association, believing this problem of concern to the profession, caused a study to be made and as a result thereof has recommended to state and local bar associations that they undertake to establish plans to make legal service readily available to persons of moderate means. This recommendation (quoted above) was made in the belief that such serv-

ice would meet this need, would be a proper public service of the bar, would be a defense against efforts to establish "socialized law," and would create new business for the profession.

In attempting to find ways and means to solve this problem in Colorado, the following conclusions have been reached:

a. That the problem is of vital concern to the legal profession, which should take action along the lines indicated below.

b. That the problem centers most largely in the larger cities and metropolitan areas, which can most feasibly handle the problem.

c. That legal service to persons of moderate means similar to the lawyer reference and other plans now in operation in Chicago, New York, Los Angeles and other cities be established by the bar in Colorado cities, particularly in Denver, and if possible some state-wide system be instituted.

d. That in order to operate such a plan successfully, it will be necessary for the bar to establish a central office to act as a clearing house for requests for service and to refer such requests to the individual lawyers participating in the plan. Such office should be located reasonably close to any legal aid office so that charity cases as such could be easily referred to that office, and it in turn could refer to the Legal Service Office these applicants who can afford to pay, at least something, for legal service.

e. That unless proper and wide-spread publicity is given, it will be futile to establish the service, as its availability must be made known to the public generally. This means that substantial funds for publicizing the service must be provided.

The Chicago and other plans generally provide a central office, in the bar association headquarters or elsewhere, where a person needing legal service and not knowing a lawyer can come, be interviewed by a competent person, preferably a lawyer, and referred to a lawyer participating in the plan, who is best qualified to handle that particular type of case. The applicant agrees at that time that he will pay a certain fee (usually about \$3.00 for a half hour or \$5.00 for a full hour initial conference) to the referral lawyer, who by participating in the plan, has agreed to accept such fee for such service. The plan only covers this initial conference, and the question of fees for subsequent service is a matter of agreement between the applicant and the lawyer rendering the service. Some of the plans provide that if they disagree, the question can be referred to a fees committee of the bar to fix a reasonable fee, under the circumstances, for the service to which both agree to abide.

As can be seen from the foregoing, the plan is not to provide free service. On the contrary, it is designed to increase legal business by bringing to lawyers' offices a large volume of cases, on a reasonable fee basis, of those persons who, the studies have found, either have not or would not seek

professional service through a *false* fear of exorbitant fees and the belief they would be obligated for a large sum as soon as they entered a lawyer's office. The advertised fixed fee for the initial conference disabuses their minds of this misapprehension and induces them to seek the service.

The plan must, of course, be operated by the bar association; and any publicity must not mention any lawyer by name, but only the bar association and the service which it is providing.

As indicated above, the establishment of a central office is a necessary element in providing such service. The committee is advised that the Denver Bar Association has recently taken steps to set up an association office with a paid secretary and that it is proposed that the Colorado Bar Association join with the Denver Bar in the maintenance of such office as a combined activity of the two associations. If this was done, it would enable the establishment of a legal service plan such as contemplated above, in such office, at least until such time as the plan demonstrated itself and grew to the point where separate or additional facilities and personnel might be required.

On such basis, and on the assumption that at least some funds would be available to establish and publicize such plan, it is urged that the recommendation hereafter stated be approved by the association, for the reasons indicated, so that the Board of Governors may be in a position to place such a plan in effect as soon as practicable and to authorize this or some other committee to proceed in the formulation and execution of such plan.

In regard to finances, some of the plans now in operation are partly, if not wholly, self-sustaining in that they provide for either a contribution from each lawyer participating in the plan in the nature of "dues" or by making some charge for each case referred on the lawyer to whom referred. Other plans are financed wholly out of association funds. This is one of the matters, it is believed, the board could consider and determine in establishing such service; hence, the final recommendation is worded to give such discretion to the board and to be flexible in its terms so that the board can meet various conditions as they may arise in the establishment and operation of such plan.

III.

Servicemen and Veterans

The committee has continued to provide legal assistance to servicemen and veterans and has referred a considerable number of cases to various members of the Colorado Bar Association who have cooperated most satisfactorily.

Although the volume of cases has not been large, it is anticipated that this work will increase as a result of the new Selective Service Act and the

induction of many new selectees into the armed forces. How much of an increase will depend on the rate of induction which in turn is dependent on developments in the international situation, which at the moment is very critical; and therefore, it is believed that we should be prepared to meet any eventuality. This would mean, in event of war, the rapid expansion of our activities. It is believed that the committee as now constituted, and its method of operation, is such as to be able to handle such a situation without substantial change. Of course, the circumstances may materially alter this view.

The chairman of this committee has recently been appointed as the chairman of the Committee on Legal Service to the Armed Forces, of the American Bar Association. In such capacity he is particularly anxious that this committee be continued and to be ready at all times to carry on its work, either in peace or war. It is most important that all state and local bar associations be in like position, and it is hoped that Colorado will continue to be a leader in this field as it has in the past.

The policies heretofore adopted by the committee apparently are sound and working well; and the committee has nothing further to report or recommend in this regard, other than that the service be continued permanently for the reasons above indicated.

IV.

Recommendations

That the Colorado Bar Association, to extend its public services, to promote a more general understanding of the value of lawyers and legal service, to advance the economic condition of the bar by bringing to lawyers' offices persons who need but have not heretofore sought the services of a lawyer, and to provide voluntarily a legal service under the control of the bar that will obviate any need or demand for "socialized law" under the control of government, approves the policy of the American Bar Association of encouraging the establishment of lawyers' reference plans to make legal service available to persons of moderate means by state and local bar associations; and in furtherance thereof, authorizes the Board of Governors to take whatever steps it deems necessary to establish such a service in Colorado either by, through and under local bar associations who wish to join in such endeavor or on a state-wide basis or both, to authorize and instruct the Legal Service Committee, or other appropriate committee, of this association in the formulation and execution of such plan, to direct any of the officers or employees, and to make available any of the office or other facilities, of this association, as may be found advisable, to aid and support the operation of such plan, and to authorize, within budgetary limitations, the expenditure of funds necessary to the establishment, operation and publicizing of such plan, as the board may deem advisable.