

July 2021

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### Recommended Citation

Frazer Arnold, The Bar's National Plan for Local Defense, 18 Dicta 100 (1941).

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# ***The Bar's National Plan for Local Defense***

By FRAZER ARNOLD\*

The Committee on National Defense of the American Bar Association was appointed by President Lashly last September. It consists of a general chairman, Mr. Edmund Ruffin Beckwith, of New York City, and one member from each of the ten (10) Federal judicial circuits. The able and indefatigable chairman also acts as committeeman from the 2nd Circuit. Mr. Beckwith maintains committee headquarters in the Mill Building at Washington, and spends most of his time there, with an organized staff.

The plan is nation-wide and means to carry the forming of committees down to "grass roots" by having a national defense committee in every county or other appropriate community—leaving the exact local form elastic to meet peculiar home conditions.

In Colorado, for example, our state president, Mr. Hutton, named Mr. John L. Zanoni state defense chairman and appointed seventeen district chairmen, one for each of our seventeen (17) local bar associations; and those district chairmen are appointing county chairmen for each of their counties.

The president of the Kansas Bar Association arbitrarily divided his state into sixteen (16) districts of about five (5) counties each, and those district chairmen appointed defense chairmen for each county.

And so on, as the state president finds appropriate in his own region.

The names and addresses of these chairmen from each state, district and county go to Mr. Beckwith in the Hill Building.

As you see, the purpose is to create an all-inclusive and sensitive network of lawyers from coast to coast.

Why?

What is the purpose and mission of this committee organization?

We have heard of the Red Network. We know also that the Nazi regime has its network in this country—active, or awaiting further developments—usually both.

While there are American agencies officially charged with the mission of neutralizing those hostile networks, it is believed the network principle can be turned to valuable account by the lawyers of this republic, for different purposes, and to meet many possibilities, some of which can and many of which cannot now be foreseen.

Mobilization is in its comparatively slow stage, yet already the

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national effort is on a larger scale than is obvious to those in civil life. Singly and by groups, young men are disappearing to join the teeming activities at army and navy schools, camps, cantonments and bases. This will increase at accelerated speed. By late summer, maneuver areas from Alaska to Georgia, in mountains, woods and swamps, will swarm with some of the forces that are probably destined to shatter the dreams of enslavement spun in Germany and Japan.

The spectacle of this free republican giant, armed and equipped, may seem as sudden as the apparition of a re-armed Germany which burst upon the sleeping French and British about 1936.

When this has been accomplished, the dull movements of every-day law, substantive and adjective, will seem dry and irrelevant to us.

Whatever the effects upon our national life of this mobilization will be, American lawyers hope that our traditional liberties will be respected and upheld. We hope that final victory will be over the spirit of slavery and despotism as fully as over the flesh and steel of its armed forces.

Up to the present, our defense committee chairman has worked with the departments of War, Navy and Justice in preparing the "Manual of Laws," a very thick pamphlet, for use by all advisory boards for registrants throughout the country. This manual will also be the reference Bible of company commanders and other officers in military and naval service for everything touching legal questions. It has been prepared in close collaboration with the army and navy to this end. Letters from the Secretaries of War and Navy, the Bureau of Navigation of the Navy, the Adjutant General of the Army and others attest the importance of this contribution by the legal profession. As mobilization grows and the war becomes more immediate, other contributions by the organized bar will increase and appear in every county, town and hamlet in some form.

Another activity, arising especially around the camps in New Jersey, and probably elsewhere by now, has been legal aid. This is to help individual soldiers and sailors when unable to have other proper advice, or where their company or ship commander cannot give them adequate protection. Few things are worse than a dramatic case of injustice done to some soldier who has not committed any real offense, especially if the injustice is done, or seemingly done, by civil authorities.

If a controversy between civil and military officials is allowed to develop, a rankling sense of injustice may lead to reprisals by enlisted men and a general bad feeling, which prompt action by lawyers and responsible civil officials could avoid.

In the present fateful and uncertain state of affairs, it can only be said that the work of these county and local defense committees of the bar may be of value at any time.

A series of memoranda is being sent to each local defense chairman as notice of his appointment reaches the national headquarters. These detail the possible ways in which the local bar may help in mobilization. But, in my opinion, the main reliance must be upon the watchfulness and judgment of the local committee, as no two conditions are wholly alike.

While it is supposed that our main function will be to further a successful preparation of men and industries, events may later dictate local effort, backed by a nation-wide organization, for the vindication and survival of *private rights* against executive or legislative usurpation in ulterior, over-zealous or unauthorized activities not at all justified by military necessity.

For example, if a military commission were to assume the authority to try and sentence a civilian, somewhere in the zone of the interior, outside of any theatre of war or insurrection, the lawyers should rally to vindicate his constitutional rights.

The principles involved ought to be much better understood now than they were during the Civil War. However, this is doubtful when we consider the current disposition of the Federal Supreme Court and others to withdraw from the citizen the constitutional protection heretofore clearly recognized, and of letting the executive or legislative branches wreak their will in many different directions hitherto carefully channeled.

Failure of the bar to give any organized opposition to this tendency has been a nation-wide disappointment. It has left the despoiled citizen, in his particular case, as helpless as though the country possessed no great body of sound legal opinion that believed him to be in the right.

On the other hand, depending upon how the menacing storms of war or insurrection may veer, there may be instances when the military and executive authority will need to be strongly upheld by lawyers in their proper and constitutional jurisdiction. For example, there may be domestic upheavals, either engineered from abroad or arising from the greed and turbulence of elements in the civil population. That will mean a condition of martial law to be invoked by governors of states, or in a proper case (which, incidentally, is clearly defined in the Constitution) by the federal executive himself. In violent times, any Governor and any President, with their military authorities, must be upheld by a unified bar in the exercise of their constitutional function and discretion.

On the same principle, we should oppose any executive, high or low, who tries to violate our inheritance of liberty under a specious plea of war-time or "emergency."

A couple of years ago, Mr. Hogan, when he retired as our national president, summarized the alarming results of recent Supreme Court decisions and, in substance, he warned the lawyers of his country that appar-

ently the legislative department must now be the keeper of constitutional freedom, because the original design of the federal courts as the main check and protection has broken down at the top.

How can there be any hope for the restoration and survival of our system of coordinate independent branches, of our plan of adequate checks and balances, of a government of laws and not of men, unless lawyers are willing to make a serious and united effort, carried down into every county, to bring this about?

I have read the statements of our bar executives and of spokesmen of this defense committee, and there emerges the clear impression that this committee may form the beginning of a wide attempt, not only for a successful national effort in preparedness and war, but also toward buttressing our ancestral liberties against the disastrous erosion of recent years.

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### **Colorado Bar Achieves Great Reforms in New Rules of Procedure**

April 6, 1941, will long be one of the outstanding days in the history of jurisprudence and bar association work in the history of Colorado. On this date the new rules of civil procedure went into effect.

Representing the greatest single achievement of law reform in the history of the state, the new rules are the result of two and one-half years of constant teamwork among the lawyers, judges, bar associations and courts and stand as a tribute to the untiring efforts of the Revision Committee under the capable guidance of the indefatigable Philip S. Van Cise of Denver.

On September 10, 1938, the Colorado Bar Association at its annual convention unanimously resolved that the Colorado Code of Civil Procedure be amended to conform to the Federal Rules as soon as practicable, and that to accomplish this result a committee be appointed to draft the new rules. As a result of this resolution, the then president of the state bar, G. Dexter Blount, appointed Philip S. Van Cise to head the Rules Committee and empowered him to select a committee of 75 lawyers from throughout the state.

This committee was divided into sections, each section of which had charge of writing a particular section of the new rules. By continuous and strenuous work during 1938 and 1939, the committee was able to report to the state convention in September, 1939, that it had secured an act of the legislature granting to the Supreme Court the right to make rules of civil procedure and that a rough draft had been partially prepared. The convention endorsed the work of the committee and ordered it to proceed.