

Probably no one knows better than the private attorney who is carrying on his own practice and at the same time endeavoring to do a share of charitable legal work that the need for a Legal Aid Bureau exists in Honolulu, as it has been shown to exist in all urban areas. Legal Aid can be defined as "the giving without cost, or for a nominal fee, legal advice and, if necessary, representation in negotiation and litigation to persons who cannot pay a lawyer". At least as long ago as thirty years, many citizens of this community recognized the need for legal advice or service to those persons worthy of help but without means to secure it, and there have been other attempts in the intervening years to interest the Bar Association as well as other community organizations in the plan. On those previous occasions, the failure of such efforts has apparently been due to the indifference of a majority of attorneys, who felt either that there were not sufficient numbers of needy persons to warrant setting up the service, or that the need was being met by the charity work of individual lawyers.

Many factors now contribute to the more general recognition that there is a problem which must be met by concerted action of the Honolulu Bar:

1. The expansion of population without a parallel expansion of job opportunities.
2. The increasing load of charity work now burdening attorneys.
3. The campaign sponsored by the American Bar Association to educate its members to the extent of the need.
4. The adoption by England of the Legal Assistance Plan which provides for legal aid and assistance to persons without funds or in the lower income brackets through government participation. This development has indicated to American attorneys that an attempt to install such a system might not

be far distant in the United States if the problem is not met by the legal profession itself. A parallel can be drawn to current developments in the medical field. As Orison S. Marden, President of the National Legal Aid Association, states: "The medical profession in our own country is now agitated because of a proposed national health program. Many people think that the medical profession waited too long, and certainly the English Bar should have acted long ago to stop by constructive action these trends toward 'nationalization' or 'socialization' of the professions."

Two other matters might be mentioned here: First, that Honolulu is out of step with other comparable cities by its failure to have a Legal Aid Bureau. Of 124 U.S. cities with over 100,000 population only 43 have no organized legal aid. Second, contrary to the fears of a few attorneys, experience has proved that a Legal Aid Bureau does not cut down on a private attorney's business, but rather increases it by serving those who have never consulted an attorney and would not do so, in fear or ignorance of his charges, but who in fact have a case an attorney would be willing to take on a contingent fee basis. Apart from the natural "selfish" interest of the legal profession in establishing a Legal Aid Bureau, there is the statistical fact that an average of nearly 8 persons per thousand population per year (or approximately 1700 Honolulu residents) need such help as the Bureau -- and no other agency -- can provide. As Harrison Tweed, President of the ALI, states: "Legal aid is not the giving of charity, but rather the assuring of the equality before the law which our Constitution guarantees. Help for those who are in legal trouble is as important and as much a social right as help for those who suffer from disease or disability.....A grievance against the administration of justice can do more social harm than suffering on account of the lack of hospital facilities."

In order to determine more precisely the need in Honolulu, responsible persons in local welfare agencies were interviewed, together with members of the Bench, private attorneys and attorneys in the public service. All these sources indicated a keen desire to see Legal Aid established here, and reported that they would have occasion many times each month to refer problems to a Legal Aid office. They report that at the present time such problems are either referred to a private attorney who agrees to handle the case on a charity basis, or that the person in need of assistance is simply told that there is nothing which can be done for him.

As a cross section of local organizations which were interviewed, the following findings are submitted as typical. The Department of Public Welfare representative stated that many applicants for aid present legal problems, primarily concerning property rights, bankruptcy and indebtedness, divorce or status of a child, landlord and tenant relationships. Except in rare cases there is no procedure for handling these problems, and the Department feels it would have occasion many times a week to call upon a Legal Aid Clinic. The American Red Cross named as the problem it would most often turn over to Legal Aid, the tracing of identities for inheritance or benefit purposes. The Red Cross executive stated that they would probably find a Lawyers' Reference Service even more valuable. Most of their contacts could pay at least modest attorney's fees, but want help in selecting an attorney and want to know the approximate cost of service.

The representative of the Child and Family Service listed three problems: (1) their contacts with indigent persons or those of meager income, who need advice or representation on matters of guardianship, divorce, estates, property rights, and debts or claims; (2) contacts with those who seek information from the service as to selecting an attorney, to whom they expect to pay a fee; (3) the need

of the agency itself, or of its case-worker, who wants sufficient advice from an attorney to handle a case with some legal implications. In the past the Service has had to call upon a few local attorneys willing to contribute their time, but the Service reports that this arrangement is unsatisfactory because case-workers are reluctant to impose on such attorneys on each occasion when help is needed.

The Veterans' Affairs Department is also keenly interested in the formation of a Legal Aid Bureau. The offices of both the Attorney General and the City-County Attorney receive many requests from private persons for aid in handling private affairs, mainly family problems, such as maintenance for deserted families, property matters, and cases in which a citizen feels he has been deprived of a legal right by a government agency or a Court at which he was not represented. Such persons are generally referred to the Attorney General's office by the Governor, social service agencies, private attorneys or by other governmental employees. The Attorney General's office reports that it would probably have occasion to refer at least 4 to 7 worthy cases to a Legal Aid Bureau per week, or between 200 and 400 cases per year.

Judge Corbett of the Juvenile Court stated that a Legal Aid Bureau would be of great benefit to those whom his Court serves, that he would refer many cases to it and that he would actively support its establishment. No existing organization can provide service of a legal nature to persons with a legitimate right but without funds to enforce it, and thus just claims are sacrificed.

In line with the above report on interviews with local social agencies, it might be well to quote the remarks of Mr. Emery Brownell in reply to a letter asking for suggestions as to how to proceed to determine the specific local need for a Legal Aid Bureau. He stated: "..... we should warn you that the extent of the need as

revealed by social agencies will represent only a fraction of the total need. Unless conditions are greatly different in Honolulu, we have found that social workers find it difficult to recognize legal problems and generally see only the more obvious ones. Besides, the majority of cases referred to Legal Aid offices come from other sources such as courts, lawyers, publicity and former clients."

### III.

Granting, then, that the need for Legal Aid exists in Honolulu, the next problem is the mechanics by which it can be supplied. Both the American Bar Association, through its Standing Committee on Legal Aid Work, and the National Legal Aid Association, have undertaken extensive and careful surveys into the administrative set-up of existing services, and the following suggestions are the conclusion of their studies.

WHO should take the lead in organizing a Legal Aid Bureau? The American Bar Association feels that is the province of the local Bar Association, in co-operation with other civic leaders or organizations. But the Bar Association itself must be willing to act as the driving force to form the Bureau.

WHAT form of organization should a Legal Aid Bureau take? The following paragraph is a quotation from a publication of the Standing Committee on Legal Aid Work of the American Bar Association: "Experience throughout the country has shown that in organizing a new legal aid office it is generally desirable to establish it as a separate entity. The most practical form would seem to be a charitable corporation, which gives to this essential service a perpetual existence and provides through its charter, by-laws and directors for a responsible supervision of the office and its policies. The society

becomes eligible as a charitable corporation to receive tax-exempt gifts and donations. It becomes more than a loose association or committee.

"A board of directors consisting of, say, 15 leading members of the community has been found to be effective and efficient . . . It is desirable to have representation from the social service field and from other civil and business interests, as well as lawyers . . . "

WHEN should the service be instituted? Because the need is present and is great and because the Bar Association probably wishes to avoid any possibility of having a legal aid plan imposed on it from an outside source, steps should be taken immediately to form a Legal Aid Bureau.

WHERE should the Office be located? The matter of office space or location is of paramount importance in the eventual effectiveness of a Legal Aid Bureau, and the American Bar Association lists as one of the fundamentals of successful operation: ". . a definite place, accessible to the persons who need the service, convenient to courts and social service agencies, and well publicized." The ideal location in Honolulu would be in the court house area or the Palace Grounds, and <sup>Justice</sup> ~~Judge~~ LeBaron suggested that there is an adequate room on the ground floor of the Territorial Court building which would be excellent for Legal Aid headquarters. This room has been assigned to the Bar Association but is now kept locked and is used only for general storage. The room has enough space to provide a waiting room with a corner for the secretary-receptionist to interview clients, a private room for the attorney, and it has the further advantage of a private washroom.

HOW should this Bureau be operated? First, the charitable corporation should be formed, and the Board of Directors activated. The most immediate concern is, of course, how the Bureau should be

financed. We quote again from the American Bar Association publication: "Most legal aid societies, in cities which have a Community Chest, receive their support from this source. A few have been financed by a joint enterprise of a municipality and a Community Chest. Legal Aid societies, especially in their inception, have been supported by bar associations and the individual efforts of lawyers and laymen. But the logical method of financing such a community service is the Community Chest . . ." It is suggested that if the Executive Committee of the Honolulu Bar Association approves the incorporation of a Legal Aid Society, the local Chest should be approached on the matter of financial assistance. Another suggestion for financing is that the McInerny Foundation be contacted to solicit their support of the Bureau until such time as Legal Aid becomes so established as a community welfare organization that the Community Chest is willing to take over the major part of its support. Additional funds can be secured if the Board of Directors should decide as a policy to charge a registration or docket fee to clients of perhaps fifty cents.

What the cost is likely to be is hard to anticipate, but the American Bar Association states that the average cost per client served (based on figures from 62 cities) was \$5.08 in 1948. Such a figure includes the salary of at least one full time attorney as director of the Legal Aid Bureau, and it is urgently recommended that this project should be attempted only if a full time secretary-receptionist and an attorney, either full or part time, can be hired. The American Bar Association Committee has found that "In population areas of 100,000 persons a legal aid organization should start with one full-time salaried attorney and a stenographer. . . A staff made up of volunteers, however conscientious they may be, will not be a success except in a very limited way. Volunteers, no matter how sincere, have their own clients to look after and cannot undertake more than a small amount

of legal aid work without sacrifice. It has been found to be entirely practical, however, to have as an adjunct of an organized office a panel of volunteers who are available to handle a limited number of court cases a year."

If a rent-free office can be secured (and particularly one which is available to the Supreme Court Library, thus avoiding the need for an independent set of reference books), the cost of a Legal Aid Service should be very moderate. Salaries for the attorney and secretary would be the principal expenses. Other expenses would be telephone service, office furniture (if not otherwise available), and office supplies. Docket cards and other necessary forms prepared by the National Legal Aid Association are available at cost from that organization, as well as complete blue prints for setting up a Legal Aid Society and for outfitting, staffing and operating the office.

It thus seems evident that the cost of establishing and operating a Legal Aid Bureau is small, particularly in view of the great need it fills, and that the financing of such a Bureau is not an insuperable problem.

#### IV.

It has been the experience of almost all Legal Aid offices that many persons who come to them for aid are able to afford the services of a private attorney. Many of these persons expect and want to pay for the legal advice they need, but do not know how to choose their own attorneys or are reluctant to do so because they fear the cost will be prohibitive. "The Solution", according to an editorial in the Journal of the American Judicature Society, "which has been developed by the Bar of America is known as the Lawyer Reference Plan. There is nothing remarkable or complicated about it. Instead of the classified directory, the person behind the desk turns to a card file of lawyers who have registered for that purpose and makes an appointment with the lawyer whose name is at the head of the list. There is



a standard fee for the first consultation, and the client has the comforting assurance that such further services as may be needed thereafter will be competently rendered and reasonably charged for."

Although the Legal Aid Bureau and the Lawyers' Reference Service serve distinct and separate purposes, they can be housed in the same office, and the receptionist for the Legal Aid Bureau can act as the referrer for the Reference Service. The advantages of this system are that the cost of operation is reduced, and that persons who are likely to send clients to the office need become familiar with only the one location and set of personnel, and need not undertake to determine whether such prospective client is eligible for Legal Aid or for a private attorney.

Basic elements of the Service are that there must be a "referrer", who has a preliminary interview with the client, a central place of business, a list of lawyers willing to accept clients referred, an agreed schedule of fees to be charged for initial interviews with clients, adequate publicity, and supervision by a Committee of the Bar Association.

The Lawyers' Reference Service has proved to be of financial assistance to those lawyers who participate in it, but it should be stressed that only those attorneys who desire to participate are placed on the list. In many cities the attorney indicates not only his specialties but also those types of cases which he will not handle.

The Lawyers' Reference Service, while being of material benefit to individual lawyers, is also a public service which the American Bar Association strongly recommends be undertaken by local Bar Associations. It would seem that the ideal time to institute such a plan in Honolulu is in conjunction with a Legal Aid Bureau, and it might contribute considerably to the self-support of the office, as the lawyers pay an annual registration fee to the Service in many communities.

The following recommendations are therefore made to the Executive Committee and to the membership of the Bar Association of Hawaii:

(1) That the Bar Association of Hawaii sponsor the formation of a Legal Aid Bureau in Honolulu.

(2) That the Bar Association of Hawaii sponsor and direct the formation and activities of a Lawyers' Reference Plan.

(3) That the President of the Bar Association appoint a committee consisting both of attorneys and of other business, civic and social service leaders to incorporate a charitable corporation known as the Legal Aid Society of Hawaii.

(4) That the Bar Association authorize the Committee to solicit financial support immediately and to make arrangements for the use of office space in the Territorial Court Building.

(5) That the Bar Association of Hawaii join the National Legal Aid Association in order to become eligible for the extensive benefits and services it provides.

If the Executive Committee gives its approval to the sponsorship by the Bar Association of a Legal Aid Bureau and Lawyers' Reference Service to be established in this general form, a detailed supplemental report on suggested policies and procedures and personnel will be made immediately.

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