

LEGAL AID SOCIETIES.

In perusing the articles which have appeared recently in the CANADIAN BAR REVIEW, I am struck with the interest which is being taken in the future outlook of the profession, both in the United States of America and in Canada, and it has occurred to me that if some discussion could be promoted through the medium of your publication on a subject which is attracting some attention in the States, the Bar of Canada as a whole might be induced to pursue the course which to me appears to be the only logical one open to it at the present time. I refer to the movement in the States to establish an international association of legal aid societies. This movement seems to be the natural outcome of the amount of social service work which is being undertaken among the citizens of all communities, either as governmental undertakings or under the auspices of private and voluntary social workers. This work is reflecting the trend of thought all the world over, whereby society as a whole is realizing its obligation to the less fortunate members to provide them with the benefits for which society is organized, for twofold reasons—one, so as to prevent the unfortunate member from drifting down too low in the social scale and thereby becoming a danger to the rest of society and a greater expense ultimately to society, and two, to make such member of society feel that there is somebody else who cares for him and that he is therefore not exactly an outcast, but has his place in the proper scheme or organized society.

Those of us who are in contact through our official positions with members of society who are receiving assistance through social service organizations have at times found it increasingly difficult to get the full benefit of such service, owing to the fact that that type of person is only too frequently in a position wherein he requires legal assistance, but is unable to get it. The work of the social organizations is often wasted owing to the hopeless and morbid outlook which is induced by the absence of proper legal assistance to the subject of relief in certain peculiar situations. It is felt that in the interest of society as a whole, each member of society should cultivate and be assisted in cultivating not only a wholesome respect for the law, but an admiration of the law, and this cannot be attained unless each person is led to feel that the law is available for him the same as it is at the disposal of the more fortunate members of society. It so fre-

quently happens that in some communities, men who have votes are told that they have a right to have a share in the government of the country and in making the laws of the country, yet, owing to their lack of means, are unable to reap the benefit of the laws of the country which they are told they have a share in making. Such a position would appear to be against the interests of any community, yet we realize that it does exist.

I read in a recent issue of the *REVIEW* an address of the Dean of Columbia Law School on "Some Phases of American Legal Education," and in the course of his address he said that in the nineteenth century there was a reaction against the Bar in the United States as an aristocratic institution, which reaction found expression in the lowering or abolition of the Bar admission requirement and the establishment of a system of selecting judges by popular elections. Both of these contingencies were being deplored by him, and would be deplorable in any community. He advocated that the American Bar Association should follow the lead of the American Medical Association; and that has given me the idea that the Canadian Bar Association has an opportunity to take some action somewhat in keeping with the action of the medical profession. As is well known, the medical profession has provided free medical clinics in every community, and also free dispensaries of medicines to those who cannot afford to pay for the supplying of either medical attention or drugs.

From time to time we have noticed throughout the provinces of Canada, legislation being introduced by the Provincial Legislatures, providing for the citizens getting the benefit of the law without having to pay for any expert advice. Note, for instance, the Workmen's Compensation Acts, the Minimum Wage legislation and Fair Wage Schedules. Recently in Manitoba certain exemptions from distress in cases of arrears of rent have been introduced, so as to protect the home of the poverty-stricken; but so far as I have been able to ascertain, nothing has been done by either the Canadian Bar Association or any of the Provincial Bar Associations to place the benefit of the services of the legal profession at the disposal of those who are unable to pay for same. There is machinery whereby some of these people get the benefit of legal advice free. I know, for instance, in the City of Winnipeg, where the matter comes under my special attention, cases are sent to the City Law Department from the Social Welfare Commission of the city, and although it is not supposed officially to be part of the Law Department functions to render legal assistance, a practice has grown up whereby advice is always given and the parties

directed in the proper course of action,—the free assistance being given upon the report of the Social Welfare Commission that it is a case in which the party cannot afford to pay for legal advice. Unfortunately for the client, the staff of the Law Department cannot appear in court and cannot actively and openly identify themselves with the case, except under the fiction of attempting to prevent the client becoming a charge upon the city, and in any event has to stop short at the point just where pressure is so often needed,—that is, at the point of bringing an action. I assume that similar work is done in other cities by their law departments, but I feel, and I am sure that others in my position feel, that our effort is very inadequate.

In the United States of America there are a number of what are known as “Legal Aid Organizations” which do this work, acting in conjunction with the different State Bar Associations. There was a Convention of the National Association of Legal Aid Organizations held in the United States in June, last year, called to organize an international association, to which I was invited, but was not able to attend. At that meeting there was read a letter from Judge Edward A. Parry, an English County Court Judge, who has written a very interesting book entitled “The Law and the Poor.” In his letter to the Association he says: “A certain amount of practical work is done by different institutions in England, but the scattered institutions and various systems have not as yet been co-ordinated on a national basis, so that I must admit that you are setting us a good example and humbly recognize that you are marching in the vanguard of this important social reform.” The work to which he refers, I take it, is that done by what are known in England as the “Poor Men’s Lawyer Societies” attached to university settlements, which do good work in advising the poor, but, like the work which my department does, it falls short of taking the poor man’s case into court. Judge Parry says that there should be an official department with a business head of affairs and attached lawyers, and recommends that in England it should be added to the duties of the labour exchanges as a department of the Board of Trade, with branches throughout the country and power to help the poor in all the courts of the country. I have had the pleasure of reading his book, and have found it extremely interesting. He deals with the position of the poor people in landlord and tenant cases and in matrimonial cases, and I find that he certainly has a thorough grasp of the problems which confront the poor people. His book illustrates the fact that in some respects the French are ahead of the British (and I would include the Canadian) communi-

ties in so far as assisting the poor people is concerned. The same thing applies to Germany and the Netherlands. In Scotland there is a well-known society which is known as the "Poor's Court", which is said to have existed since 1424, and which has developed into a more recent institution, the details of which have been given me by a Scotch lawyer from Edinburgh, and which is described by him as follows:—

"More recently it was found that the work of these lawyers could be materially lightened and a further service rendered to the poor if there were some body to which they could go for legal advice with reference to succession, matrimonial or landlord and tenant disputes, where resort to the Courts was not likely to be necessary or the matter too trifling for such procedure, but nevertheless of anxious moment to the parties involved. This led to the formation of 'The Edinburgh Legal Dispensary.' This is a society formed along the same lines as the medical dispensaries common all over England and Scotland. The membership consists of lawyers principally and others interested in the welfare of the poor. The fee for membership is very nominal—sufficient to cover the rent of rooms and other necessary outlays only. The active members are young lawyers and law students, who have access to the older members of the profession for guidance in cases of difficulty. On certain nights in the week the rooms are open to the public and the members attend in rotation to hear the troubles of the poor and advise them, and, where necessary, enter into negotiations with, say, grasping landlords, harsh employers or erring husbands or wives. Probably the majority of the cases are of a family nature, frequently capable of adjustment. Should litigation appear desirable, the information received is passed on to one of the Poor's Solicitors."

I find that the Illinois Bar Association has an interesting plan which it has recently devised—"The State Bar Association invites the social service organization to call for legal help and, in turn, the local Bar Association agrees to furnish the local social service body with a list of members who will contribute services without charge. The State Bar Association furnishes order blanks for use by the social agencies, and it is my understanding that someone from the social agency hands out an order blank to the client before the client goes to the lawyer for assistance. The case is then sent to a member of the Bar, and the member of the Bar who does the work will make a notation on this order blank and see that the blank is returned to the social agency so that they can have a follow-up system. The social agencies, or rather the secretaries of the social agencies, will issue

such an order only to the members of the Bar on the list, and they issue them in rotation according to the agreement. And, finally, there is a joint committee which says what classes of cases may be assigned, with the understanding that a small fee may be charged, and the social agencies make a report once a year to the State Bar Association as to the nature of the work done." Of course there are what are known as "Public Defenders" in several of the States of the Union to the south, and I understand that there is a movement on foot in several Canadian cities to supply such an official.

The scheme, however, of providing for legal aid to the poor must cover a wider field than merely a defender in criminal cases. In Chicago there is what is known as a "Legal Clinic," at which students are required to give service free, but from which they derive the benefit of the practice. The students are allowed to do a certain amount of court work, chamber work, that is, and motions which can be made by students. I am informed that the same thing applies at the Harvard Law School. All these matters were thoroughly discussed at the meeting of the Association of Legal Aid Organizations, some of the representatives at which meeting were lawyers with complete knowledge of the subject, and they all seemed to regard it as a very successful undertaking. There was one fact, however, which stood out very prominently, and that was that such an institution could not succeed without the entire sympathy and support of both the law faculty and the Bar Associations. Sir William Mulock, in his article in a recent issue of the *REVIEW*, stated that the function of the profession, among other things, was to establish justice, to maintain the rights of man, to defend the helpless and oppressed, and to succour the innocent. There is a strong feeling in the community at large that the legal profession in Canada is not living up to the great purposes for which it exists. Judge Parry, in making his appeal for something to be done for the poor, says: "Medicine has its noble traditions of charity—why should not lawyers set an example of self-sacrifice and unselfishness?" Then he goes on to say: "Is there some subtle essence in the law that of necessity destroys the favourable microbes that promote peace and good-will among men?"

We are at present going through a very interesting experience throughout the world, and are feeling the effects of it in Canada no less than in any other part of the world. The Russian revolution is having its reflex action in Canada, just as the French revolution had its reflex action in England. At the time of the French revolution, and the resulting agitation in England, the state of society was very

unsettled, and several prosecutions resulted. No less an advocate than Lord Erskine, who undertook the defence of more than one man tried for treason, in most of his famous speeches never failed to warn the Court and jury, and through them the public at large, that to maintain the constitution it was necessary to instill in the minds of the people not only respect, but a due regard for the law. This can only be attained by leading the mass of the people to realize that they are entitled to a fair share of the advantages of the law. The Bar Association would be fulfilling its highest function if it took the lead in a movement in Canada which would make the mass of the people realize or feel that the members of the profession were doing something to give to those who cannot pay for it the benefit of the special training and special qualifications which the members have for dealing with the complex problems of society, and which our intricate social organization renders so necessary. We must not be blind to the fact that we are faced to-day with another revolution. The genius of the British people has been such that they have been able to face bloodless revolutions by adjusting themselves to meet changed conditions. Where that has been omitted and the approaching change has been ignored, much of what was good in the conditions prevailing before the revolution has been destroyed, and the world has been very much the loser thereby. In the process which we are now undergoing, there is the danger of our losing some of our best institutions, and I know of no organization more fitted to face the situation and adjust itself to meet the changing conditions than the Canadian Bar Association, and my suggestion is that a special committee of the Association be appointed to go into this matter, and I hope that no time will be lost in bringing the matter before the executive.

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