

WAR AND THE LEGAL PROFESSION

A MEMORANDUM FROM THE PRESIDENT

The meeting of the Council of the Canadian Bar Association held in August indicated a keen desire on the part of the profession as so represented to intensify the work of the Bar generally in support of the War and the solution of problems arising out of the War.

Resolutions which had been passed at the mid-winter meeting concerning War work were reviewed and further resolutions were adopted giving a mandate to the executive officers to set up further committees and to complete the organization and co-ordination of the work of committees already appointed.

Members of Council present were enthused and encouraged by the impressive addresses and reports arising out of the meeting of the American Bar Association and in considering the work of the Canadian Bar it might be well to review some of the work already organized and functioning of the very able Committees and personnel of the American Bar.

At the Annual Meeting of the A.B.A. in 1917, a "War Committee" was set up to "consider and take such action as may be appropriate concerning matters from time to time arising by reason of the War and in which the Association may be of service to the general welfare". Included in the distinguished personnel of this Committee were Elihu Root, Chairman, New York, and the Hon. W. H. Taft.

For the present War, a Committee was created pursuant to resolution adopted by the assembly in September 1940 then called the "Committee on National Defence". This Committee was appointed only after consulting with members of the Board of Governors and through them with State and local Bar Association officials. Col. E. R. Beckwith of New York was appointed Chairman and guided its affairs most ably until August of this year. This Committee was subsequently termed the "Committee on Co-ordination and Direction of War Work".

The July War Letter of this Committee states,—

"As its name implies, the principal function of the Committee is to co-ordinate and focus the total energies and efforts of the Association upon the vital business of waging and winning the War. Another duty of the Committee is the carrying out, and execution of matters which do not fall within the jurisdiction of other Committees".

Under this Committee, or co-operating with it, are numerous other divisional Committees.

Col. Beckwith, in reviewing the subject generally, dealt with

- (1) Organization of the Bar:
- (2) Its contact with the Government and personalities and all other social organizations:
- (3) The specific projects:

As to (1), Col. Beckwith points out that though the work might be called a Bar Association movement the purpose is to reach and enlist the efforts of the Bar at large and give leadership in this work, and throughout the states, counties and cities committee structures have been built up which he states are autonomous and that they have no direct line of responsibility to the A.B.A. though he stated the contrary would not be true.

Again, there exists an unofficial group of senior state, military and naval officers who are always available on call to consult with the Committee. Following this same pattern, the state organizations have arranged similar co-operation with state governments.

In the net result, Col. Beckwith states "that the war time organization of the Bar might be said to be a thoroughly integral organization in a community working well with the Government and with the more familiar type of social agencies".

All these Committees follow fundamentally the pattern outlined or from time to time outlined by the General Committee.

The July War Letter also outlines the increased mandate on which the War Committee is working and includes ten points,—

1. Continuation and extension of the services of the organized Bar to the men in the armed services and their dependents:
2. Developing in the field of civilian defence measures and procedures for the protection of the lives and properties of civilians:
3. Collection of data concerning available personnel for legal service:
4. Conservation of the practice of lawyers serving in the armed forces:
5. Improving the administration of justice with particular reference to the conservation of man hours in Court proceedings:

6. Assuring observance of the provisions of the Bill of Rights:
7. Study of problems raised by the War in the field of International Law having in view development of a post-war programme:
8. Maintenance of standards of legal education:
9. Developing public studies and discussions of history, institutions, War, post-war objectives and other matters:
10. Strengthening and developing the Association's public information programme and personnel and increasing its availability.

In implementing this mandate, as stated above, nation wide committees for legal aid and legal service were organized, state and local Bar Associations co-operating to this end.

The general work of these Committees has been outlined in a model plan suggested in a War Series Bulletin No. 2, and a further War Bulletin No. 3 has set out plans of co-operation between the Red Cross and such Committees.

In addition to these Committees and to already existing sections and Committees of the A.B.A. there have been set up,—

A Committee on Civilian Defence which, among other things, is giving attention to the formulation of model statutes and ordinances providing emergency powers:

A Committee on Improving the Administration of Justice. This Committee has prepared a comprehensive report on the work of State Committees, which have been co-operating with it, indicating specific advance in various states:

The section on International and Comparative Law is working through a special "Committee on International and Legal Problems Raised by War Conditions" and is carrying on intensive studies to enable the Bar to take its place at the appropriate time in the planning for a secure peace and preservation of basic institutions:

The Committee on the Bill of Rights is giving emphasis "to the importance of mobilizing all the nation's maximum strength for victory without permanent impairment of basic rights" and stressing "the need for a sense of balance and proportion in order to avoid impairment of democracy by the effort to preserve it".

Public Information Programme: This work was previously undertaken by a Committee of the Junior Bar. Under present

conditions, this work is being reorganized under the direction of the General Committee and a National Director of the public information programme of the A.B.A. has been appointed. Speakers from the profession on the variety of topics for which speakers are from time to time requested work generally under the auspices of this programme in order to give better co-ordination and to eliminate improper or wasteful calls upon the profession. Radio time and technique also comes within the scope of the Bureau of Public Information.

Col. Beckwith again stresses the fact that though there are many lawyers who have never become members of any Bar Association it is far from saying that such men are unwilling to take part in a united effort for the special purposes now in view. It is more likely to be true that very many of them are very eager to join in an articulate national movement.

In further organizing and expanding the efforts of the Canadian Bar in this respect, it is felt that this should be an important factor and effort made to give leadership to and co-operate with the members of the Bar as a whole.

CANADA

Though the formation of a General Committee "to direct and co-ordinate the whole effort" has been directed by Council, and will be immediately proceeded with, it is well to review existing sections and Committees whose work during the period of War can well be directed to some of the problems undertaken by the A.B.A. and outlined by Council for this Association.

Sections—

- (a) Administration of Civil Justice: John R. Marshall, K.C., Chairman:
- (b) Administration of Criminal Justice: J. C. McRuer, K.C., Chairman:
- (c) Legal Education and Training: W. S. Montgomery, K.C., Chairman:

Committees—

- (d) Administrative Tribunals and Law Reform: J. B. Coyne, K.C., Chairman:

It would appear that (a), (b) and (d) could most comprehensively cover the work of the A.B.A. Committee on Improving the Administration of Justice.

Mr. Montgomery's Committee (c) will no doubt direct some of its attention to the particular War requirements such as are being dealt with by the A.B.A.

(e) Civil Liberties: W. F. Chipman, K.C., Chairman:

The formation of this Committee was discussed at the mid-winter meeting in 1941 and further dealt with at the time of the annual meeting, and at the mid-winter meeting in 1942 the President reported that Mr. Chipman had agreed to accept the Chairmanship of this Committee. The work and scope of this Committee would seem comparable to that of the A.B.A. Committee on the Bill of Rights.

(f) Post-War Problems:

Though this Committee has not yet been appointed, the terms of the reference are as follows,—

“Resolved that The Canadian Bar Association put its facilities at the disposal of those governmental bodies charged with the duty of developing plans for the solution of national and international problems arising out of the War, including reconstruction and post-war problems in their legal aspects; and that the President be authorized to appoint a committee for this purpose”.

In addition there is already

(g) A Committee on International Law: C. Rhodes Smith, K.C., Chairman.

It would appear that the work of Committees (f) and (g) might be closely related in carrying out the terms of this reference and other work outlined by the A.B.A. Special Committee on International and Legal problems raised by War conditions, some of the general objects of which are set out in the August War Letter of the Committee, published in the September A.B.A. Journal.

When the General Committee is appointed, one of its principal duties will be the building up and co-operation with necessary local organizations throughout Canada. It is not to be suggested that local Bar Associations and Law Societies have not already made substantial progress in this respect.

For example, in Ontario, a Committee was duly appointed by Mr. K. F. Mackenzie, K.C., Vice-President for Ontario, under the Chairmanship of Miss Hyndman, K.C. Interim reports which have been received indicate that this Committee has made excellent progress in organizing Committees throughout the Province and in establishing co-operation with Government officials. The primary purpose of these Committees is the giving of legal assistance in both criminal and certain civil matters to members of the armed forces and their dependants, such local Committees being, as in the case of the A.B.A., more or less decentralized and autonomous in nature. Mr. Mackenzie, in forwarding the June report, also indicates that consideration is being given to other matters of a more national aspect, some of which will fall within the scope of the work of the Committee on Post-War Problems. Mr. MacKenzie states,—

In my opinion our profession is peculiarly fitted to study and give a lead to the social changes which are bound to take place and to harmonize them with the legal structure on which our liberties are based, and we are also in particular danger of suffering in prestige and pocket if these changes are not fitted into our legal system.

In developing the pattern for the work, the making of necessary contacts with the personnel of governments or other organizations and the distribution of material and information, there is no doubt that the local Committees will need and welcome a close co-operation with the General Committee of the C.B.A. which will give resultant co-ordination of the total effort.

In this connection, it might be pointed out that a Committee has been set up under the chairmanship of Mr. E. K. Williams, K.C., the members being the Provincial Vice-Presidents, for seeking means of either affiliation or closer co-operation with the Bar generally throughout Canada or with existing Bar organizations.

As the primary work of the General Committee is to give such help as they can towards the mobilization of members of the profession (whether member of the Association or not), in War duties and responsibilities, if this work is thoroughly done and assistance and co-operation given to the profession, there should be a resultant quickening of interest in the work of the Association throughout the profession generally. Accordingly, it would seem that in the introduction of this work throughout the Provinces the Committee headed by Mr. Williams can work closely with the General Committee and be of valuable assistance in this respect.

A study of the extended Minutes of the August meeting when received will no doubt include resolutions and expressions of opinion of Council in respect of which this memorandum may require amplification. Steps are also being taken to secure copies of the War Service Bulletins referred to from the A.B.A. which should be helpful.

Meanwhile, I am availing myself of the pages of the REVIEW in order that all members of the profession may give consideration to the activities and organizations in connection with this War work.

Steps will, of course, be taken to proceed with the instructions given by Council but, as this work proceeds, your comments and suggestions will greatly assist and be most welcome.

G. H. AIKINS.