

THE WAR WORK OF LAWYERS AND OF THE ORGANIZED BAR IN THE UNITED STATES

by

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There has been no recent opportunity for me to make an accurate check-up on what you have done and I have to guess as to those points that may interest you. I could readily take two hours, but I hope to cover in about twenty minutes the three important parts of this big and complex subject. Then, if I do not hit what is a live topic with you, or if I do not state clearly what it is all about, I hope you will ask questions.

The three chief parts of the subject are the special organization of the Bar for war work; its war-time contact with Government, with official persons and with other civilian organizations; and finally the specific projects it has undertaken.

As to organization, the Committee of the American Bar Association has conducted itself as both a clearing house and a working agency. It went to each State Bar Association and said: "Will you create a committee in your state approximately upon the national pattern that we recommend?", and the same general plan was followed in each state. You know there is one association in each state, and similarly in the District of Columbia. Each state association's president was asked to make his own contact with the local associations in whatever large cities he might have in the state and say: "For war work in this state will you tell me what area you will be responsible for, in terms of contact with all the lawyers in it, whether or not these lawyers happen to be members of any bar association? We are going to call this an Association movement but its purpose is to reach the whole Bar. In some states less than half of those who practice law are members of any association, but this project is designed to reach every man who practises. So, Mr. president of a local association, will you designate to the State Bar Association what area you will be responsible for, either in your own county or in contiguous counties?" When the State Bar President had that answer he would look at the rest of the state and consider his own state pattern of action,

* Notes from an extemporaneous address to the Council of the Canadian Bar Association at Windsor, Ontario, on August 25, 1942. Col. Beckwith, a member of the New York Bar and Judge Advocate General of the New York Guard, was chairman of the Committee on War Work, (first called the Committee on National Defence) of the American Bar Association for the two years ended September, 1942.

according to counties or judicial districts or other units, and he would pick out other members of the State Committee who would be responsible for all the rest of the state.

In the course of about a year we built up a structure of more than 1400 War Work Committeemen as chairmen and sub-chairmen in states, counties and cities. They are autonomous. They have no direct line of responsibility to the American Bar Association, and they do most of the actual work as their own local conditions indicate a need for it. That is the present internal organization of the whole Bar, and it is capable of indefinite expansion as may be needed.

In respect to Government, from the beginning a certain plan has worked with great success. The Secretary of War nominated a man, a Colonel in the Army, as his member of an unofficial committee. Then the Judge Advocate General of the Army appointed a Colonel on his staff and the like officer of the Navy made a similar appointment. The Attorney General assigned one of his top-ranking assistants, the Director of Selective Service deputized a Colonel to act for him, and from time to time there have been other men working with the group who came from various important boards and departments. Under the chairmanship of the senior colonel this group meets when we ask it to but it is wholly unofficial, and because each of these men is designated by his own superior, they are not formally organized. If we have wanted some instructions or if some matter might need to be formulated or reconciled to government policy, it has only been necessary for me to take up the telephone and say, "Colonel, will you call the advisory group together?", and then the problem is put before them. Everybody talks informally and they all look entirely innocent, and we go to lunch, and some time in the afternoon the problem gets solved.

Following that pattern the state organizations have largely succeeded in doing the same thing with their state governments. I suppose that no two of them are quite alike. It does not matter.

That has also worked quite well in reverse because more than one state government and more than one agency of the Federal Government have turned to the War Work Committees of the bar associations as to specific legislation, and we have found that this modern type of organization has served a distinct public service going up the line of authority as well as coming down.

The next thing was to adopt and make effective a similar but perhaps closer type of liaison with other social and educational agencies, and we have accomplished the same kind of efficient cooperation in that field that there has been governmentally. The wartime organization of the Bar might be said to be a thoroughly integral organization in the community, working well with Government on the one side and with the more permanent forms of social agencies on the other.

In terms of policy I suppose it would be accurate to say that we have simply had one guiding light and that was to determine what it is that the Bar could do. If you stop to think about it and put yourselves back in the position we were in two years ago, you will be greatly puzzled at the beginning to suggest even one single answer to the question, What can the Bar, as such, do in relation to the war?

We came at it by elimination. What, after all, are the aspects and attributes of a lawyer? I say that there are three. In the first place, a lawyer is an individual admitted to the Bar and as such he engages in the private practice of law as an individual, a sort of "lone wolf," and nothing that he does in that respect or in that character has anything to do with the Bar Association so long as he behaves himself. In the second, discipline of the law. That makes him an actor in all kinds of community life so that, for example, you cannot find a board of directors or trustees of any enterprise anywhere that does not have at least one lawyer on it; yet even that has not anything to do with the Bar Association. But when you come to consider the function of the organized Bar I say that it no longer matters whether a man is a good lawyer or a bad one; it does not matter about his colour, his race or his creed; whether it is man or woman; it matters only that the organized Bar is the one agency which, corporately and organically, has been given a monopoly to maintain the one thing that is responsible for man's freedom. We began to look at that.

We came upon a novel application. We thought of the familiar fact that the only internal difference between a free government and a slave government is that the slave government exercises the same kind of force within as without, and the free government exercises no force but only the wholly unarmed power of justice under law as that form is entrusted to and administered by the Bar. There, we said, we can find the essential principle of the life of the Bar, so if we have a competent organization we need only to find the practical things

which in time of war are consistent with the character of the Bar as the indispensable agency of free men.

The first thing we found remains in volume the greatest one, though I do not think it will prove the most important activity in the end. I am speaking now of free legal assistance to the men in the armed forces and their families, which has so far run up a volume of several hundred thousand cases. The work comes up in several ways. In the first place, we have in every county a Draft Board for Selective Service, and connected with every Draft Board there is an Advisory Board composed chiefly of lawyers. They are, in a sense, public officials. They are named by the governor of the state. Their duty is to answer, without charge, questions relating to the processes of Selective Service. About 80,000 lawyers, or approximately half of the active Bar, have been at one time or another named on these advisory boards within the last two years. Most of the bar associations have emergency committees on *Military Legal Aid*, and they are tied up with these advisory boards so they are either the same or have some of the same members or share a secretary. That made it possible for us to have a single form of legal aid structure which was entrusted with both jobs, answering the questions of the fellow who is being drawn up for selective service as well as the fellow who is already in the service as a regular or volunteer or any member of the family of either of them. Plans were then worked out through the Army and Navy and set up in the personnel departments. So, if an application from a man in service in Alaska or in the Canal Zone or anywhere else should come "through channels" in the military mail, and should land on the desk of an officer in Washington, he finds on our list the right one of these 1400 sub-chairmen, and that communication will go immediately forward. If some member of a family of a man in service writes to the White House and says, "Mr. President, my son is in the army and so-and-so is the trouble," the presidential secretary will send on the letter in the same way.

In addition to all these official connections, we have arrangements with the Red Cross, the Army and Navy relief societies, and various other social-work channels so that applications for any kind of assistance which involve legal questions are referred to this organization of the Bar in any part of the country. I am intensely proud of our having it covered so that no matter how the question arises it can get back to where it belongs, in the hands of a good lawyer.

The bar associations and the individual lawyers have paid the whole expense of the organization, all the clerical hire and whatever else was supposed to be necessary. The Committee on Professional Ethics made two rulings. One was that all services rendered in connection with the processes of the military draft must be free. The other was that services not in that class should be free or not in accordance with the long-standing rule of the legal aid societies that the case is not a free one if it is of sufficient substance to produce a fund which would attract a competent lawyer in private practice or if the client is independently able to pay such a fee for the service he requires.

The next immediate problem looks large on paper, but we have not found it a big one except in a few localities. It seems to be a matter of community thinking. We set up committees responsible for preserving the law practice of the men of the Bar going into the armed forces. We carefully studied the procedure of the English Bar in this matter. The committees have made it known that if a man is going away and he cannot make satisfactory arrangements with a partner or with friends or as he chooses, they will take over his work and will perform it in accordance with the best traditions of the Bar, they will divide the fees more generously than the canon ordinarily permits (so that they can send the whole fee to the man in the service, although he does none of the work) and the committee obligates itself further, upon the man's return, to endeavour to persuade his clients to return to him and under no circumstances to continue to represent them. In practice there has not proved to be much of a demand for this, but the mere existence of the committees has done some useful things. It has helped to inform and advise the men who will be going away. It has created a spirit among the lay public which seems to us to be good, for obvious reasons.

The third thing that was undertaken was the writing of handbooks. The first questionnaires under the Selective Service Law were going out from the Draft Boards on the 5th of January, 1941. On the 8th of November, 1940, after snooping around through the government agencies, I discovered that nobody anywhere had had time to plan to do anything about this other than to issue the official regulations, which could not be very readily understood by non-experts. With the most magnificent cooperation in every quarter I got out the first of our efforts along this line, the one called "A Manual of Law

for use by Advisory Boards for Registrants." It was written in thirteen days. It actually took longer to get it through the government printing office than to write it, it even took longer to read the proof. But along in December the press turned out 200,000 copies so that the Draft Boards and the Advisory Boards, including the 80,000 lawyers, had the simple summary in time. The second edition of the Manual is now on the government presses, and it will be more than twice as big as the first one.

This past spring, after the Committee on War Work had been exploring and experimenting with all these subjects for 18 months, the American Bar Association set up a new committee on what we call Civilian Defence, and it is now preparing for the printers a hand-book in its field, relating to air raid wardens, auxiliary police, and other such matters on which no other adequate studies have been made.

Then another thing of great value came up to us from many different places, a plan for a "checklist" of legal matters such as wills, powers of attorney, insurance policies and other contracts, or problems which ought to be reviewed and somehow settled by a man who is going away and may be never coming back. This is a tough assignment because such a list could very easily degenerate into that horrible thing, a law book for laymen. I am glad to say that the War Committee of the Bar of the City of New York is cooperating with the Committee on War Work to such good effect that within the very near future we hope to tender to the agencies of government a highly practical solution to this problem.

We have found that we could render a peculiar and distinct service in wartime, beyond the normal run of bar association work, in setting up special committees on legislation to assist the Legislatures, both National and State. We have found room for special work in public information, in education for citizenship, in morale generally. I personally believe that the organized Bar will some day perform the most notable, unique and indispensable work in preserving the institutions of freedom. It was no doubt due to a common sentiment of that nature which caused the American Bar Association to set up last spring a new over-all group to which it gave the needlessly cumbersome title of "Committee on Coordination and Direction of War Effort." That committee has endeavoured to pick up the special undertakings of the Committee on War Work with the relevant activities of many other committees and sections of the Associa-

tion and to give them all a unified direction. This was an even more venturesome step than the original creation of the Association's Committee on National Defence, and the unprecedented scope of its efforts will be of great significance to the future development of the public work of the Bar.

I came here not only to try to make an explanation of these things, so that you might see some sound and practical sense in them, but I wish to say that we hope you will do something of the same general kind on your side of the line which divides but does not separate us, so that we may be able to work with you in attending satisfactorily to these common problems.

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[At the conclusion of Colonel Beckwith's address the following discussion took place.]

PRESIDENT: Gentlemen, are there any questions you wish to direct to Col. Beckwith?

MR. BETHUNE: Col. Beckwith, first of all, you mentioned the fact of free legal assistance to the members of the armed forces and their families. We have done a little bit of that. The question of disbursements has come up.

COL. BECKWITH: We have in all our principal cities a Legal Aid Society or Bureau, or something like that with the words "Legal Aid" in it, which is usually allied with the Community Chests. Some of these societies are 50 years old or more. Many disbursement items in the larger cities are carried by the legal aid budget. In rural districts the costs with us do not amount to much and they are paid to the individual lawyers if necessary.

MR. BETHUNE: My second question involves the future of the members of the Bar who have just graduated from college and have been admitted, and immediately selected for service in one of the armed forces without having an opportunity of engaging in practice. Those lads, just at the time when the practice or profession would be making an impression upon them, are called from it. When they come back after the war is over, they will start a good deal behind the beginning in competition with us. Is there any move being made to assist these young men when they come back to try to pull them up by free advice or free consultation, or is it proper to leave them find their own level?

COL. BECKWITH: You have asked a question to which there are five or six disassociated answers. There has been a lot

of talk about it. I suppose the most general answer, and probably the truest one, is that it is simply one of the tragedies of war. There are also some partial answers. Some of the publishers of our law reports have made offers to see to it that these men get the advance sheets of reported cases so that they can read a little if the military exercises give them any time to do it. In some of the camps there is a growing practice to use the lawyer-soldier in the handling of legal aid inside the camp, under the direction of the staff judge advocate. Then there is the regular post-admission program, and there has been talk as to how much of it will be made available to the chaps who come back to refresh themselves on the technical side. But I guess you come finally to the answer that none of that really makes much difference. There are men who will make good at the Bar regardless of anything and there are others who will not make good at the Bar even if you do not have a war.—Applause.

MR. MACKENZIE: I should not like Col. Beckwith to go away with the idea that we have not made a start on this problem.

COL. BECKWITH: I do not have that idea.

MR. MACKENZIE: We have set up in Ontario a Committee under the chairmanship of Miss Hyndman, K.C., who unfortunately is not here to-day, but Mr. Edmonds is her representative on that Committee. There is a problem on which you have touched but about which you have not given us as much assistance as you could. That is the question of public information. I would like to know what the American Bar Association is doing with that.

COL. BECKWITH: I will try to tell you. Public information, in the sense that the American Bar Association tried to deal with it, became a special project of the Junior Bar Section about six years ago. That Section is made up of lawyers who are less than 36 years old. They set up a bureau of their own which they called the Directors of their Public Information Program, composed in each state of a member of the Junior Bar and such helpers as he wanted to enlist, and then they got busy digging up all kinds of material ranging from new tax legislation to the history of the Bill of Rights. They prepared outlines and summaries which they distributed among their members, and the activities became substantial, but the Junior Bar has been shot to pieces and the Co-Ordination Committee is now setting up in Washington a full time Director of Public Information who will build on the remnants of the junior organization. Being in

Washington and having already some pattern and tradition to go on, he will endeavour to take up all such things as the lawyers should tell to the people of their communities.

MR. MACKENZIE: I had a feeling that this was a matter for the senior members of the Bar.

COL. BECKWITH: They have it now. There is one other aspect of it which is important locally, and for which my Committee can claim some responsibility. We have a charming tendency that every time anyone starts anything, whether it is selling war bonds or building a local hospital or fronting a new religion, the first thing the chairman thinks of is his own speakers' bureau. The upshot of that was that we would have in a town lawyers who were articulate and coherent, and all of them would be known as such, and every bird that came along with a project, would get the same fellows on it and they would trip all over themselves. We have tried to stop that and to say that a committee of the local bar will arrange for a common pool of speakers, for radio time and for good technical management.