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M I S C E L L A N E O U S S E R I E S

**GROWTH OF LEGAL AID WORK
IN THE UNITED STATES**

A STUDY OF OUR ADMINISTRATION OF JUSTICE
PRIMARILY AS IT AFFECTS THE WAGE EARNER
AND OF THE AGENCIES DESIGNED TO
IMPROVE HIS POSITION
BEFORE THE LAW

By

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and

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with Preface by

William Howard Taft

Chief Justice United States Supreme Court



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PREFACE

I am indebted to Mr. Ethelbert Stewart for the opportunity to read the following report on a subject of great importance. He has asked me to write a preface to that report, and I am glad to do so.

The growth of legal aid work in the United States, as set forth herein by Mr. Reginald Heber Smith and Mr. John S. Bradway, discloses a field for practical reform in our administration of justice of great value. The social changes in our people, the transfer from country to urban life of the majority, the influx of peoples of foreign birth, and the great increase in the cost of litigation to persons taking part in it have together seriously impaired the usefulness of our courts to those who most need their protection. Our just pride in the institutions derived from the common law, embodied in our Federal and State Constitutions, is much of it in the maintenance of individual rights. They are chiefly valuable in enabling the individual, without dependence on executive favor, to maintain and defend in the courts his life, liberty, and property. The peculiar value of our constitutional Bill of Rights is not in high sounding declarations of substantive right, whose preservation is generally enjoined upon all Government authority in every country. They are to be found in the fundamental law of most States of the world and are too often more honored in the breach than in the observance. The real practical blessing of our Bill of Rights is in its provisions for fixed procedure securing a fair hearing by independent courts to each individual. It makes these adjective rights inviolable. The right of trial by jury, the right to be defended against unreasonable searches and seizures, the right requiring due process in the deprivation of life, liberty, or property illustrate the practical realization in Anglo-Saxon liberty of vesting the power in the individual as an individual to obtain, without cultivating the favor of official authority, fixed judicial procedure to protect his substantial rights. But if the individual in seeking to protect himself is without money to avail himself of such procedure the Constitution and the procedure made inviolable by it do not practically work for the equal benefit of all. Something must be devised by which everyone, however lowly and however poor, however unable by his means to employ a lawyer and to pay court costs, shall be furnished the opportunity to set this fixed machinery of justice going.

It was the consciousness of the harshness of the circumstances in shutting poor people out of the opportunity to appeal to courts that

induced Arthur von Briesen, that philanthropic leader of the bar, to organize and set on foot legal aid societies. This paper by these two gentlemen shows how much has already been thereby accomplished in furnishing to poor people good legal advice and good legal service.

Such societies have increased in various parts of the country and differ some in their organization, in the sources of their maintenance, whether by the bar, or by social aid societies, or by municipalities. The success of them and the real good that they have done are a testimony to the high spirit of many lawyers and reflect credit on the bar. Without expressing a final personal conclusion on the subject, it seems to me that ultimately these instrumentalities will have to be made a part of the administration of justice and paid for out of public funds. I think that we shall have to come, and ought to come, to the creation in every criminal court of the office of public defender, and that he should be paid out of the treasury of the county or the State. I think, too, that there should be a department in every large city, and probably in the State, which shall be sufficiently equipped to offer legal advice and legal service in suits and defenses in all civil cases, but especially in small claims courts, in courts of domestic relations, and in other forums of the plain people.

A great deal has been done to promote the achieving of justice for the poor and unfortunate in workmen's compensation acts. They have expedited just recoveries and have relieved the burdened courts, enabling them to dispose of other litigation heretofore long delayed.

It may be necessary, in order to prevent unwise or improper litigation, to impose a small fee for the bringing and carrying through of a suit by such free agencies. The department of free legal aid should be charged with the duty of examining every applicant and looking into his actual poverty and necessity and the probably just basis for his appeal. It may be well to unite both civil and criminal cases and make the public defender a part of the general department of free legal service. The growth of these legal aid organizations is the most satisfactory proof of their necessity.

We are greatly indebted to the gentlemen who have made this report, with its interesting exhibits, for proving, as they do prove, that the Congress and the legislatures of the States have within their grasp an opportunity for relieving our present judicial system of the just criticism that, in view of present court costs and the expense of lawyers' services, the equal protection of our laws is not infrequently denied.

WM. H. TAFT.

WASHINGTON, D. C., *June 2, 1925.*

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BULLETIN OF THE U. S. BUREAU OF LABOR STATISTICS

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GROWTH OF LEGAL AID WORK IN THE UNITED STATES

CHAPTER I.—THE WAGE EARNER AND THE LAW

To understand the obstacles which confront a wage earner when he seeks redress for a legal wrong or protection for a legal right through an appeal to the administration of justice, and to appreciate the difficulties which handicap our courts in their efforts to grant certain and speedy relief to the wage earner in common with all other citizens, it is first of all necessary to recall to mind the profound social and economic changes that have occurred in the conditions of American life. There is no other method of approach that can define and explain our existing problems and set us on the road that may lead to their solution because no other approach strikes deep enough to lay bare the fundamental causes.

When the latest census figures were published we learned that for the first time in our history the population of the United States had become predominantly urban. By 1920 more than half of our people had become dwellers in cities, and this development proceeds apace with no sign of abating. From 1790 to 1800, while the structural framework of our present legal system was being securely laid, there were only six cities or towns that could boast of more than 8,000 inhabitants, and their aggregate population was only 4 per cent of the total population of the country. The most recent census statistics reveal that American civilization, taken as a whole, has definitely passed from the simpler conditions of agricultural and frontier life to the complex, intricate, and more ruthless conditions of an industrialized society. Cities spring up in the wake of factories, and they are inhabited chiefly by the persons who earn their livelihoods in those factories. Our wage earners, numbering more than 26,000,000 persons, now constitute our most rapidly growing class or group, and this fact alone justifies the effort to explain in this bulletin how the administration of justice may be brought into closer harmony with the peculiar needs of this great constituent part of our citizenship.

In recent years much has been written concerning the law and its effect on the collective interests of wage earners; there is a voluminous literature on the law of labor unions, collective bargaining, strikes, picketing, closed shop, injunctions; but little space and attention have been devoted to the law as it affects the individual claims and the individual rights of the wage earner and of his family in their everyday life. It is the purpose of the authors of this

article to exclude all consideration of the collective disputes of labor and to confine themselves to the legal problems of the individual laboring man or woman. However vital and important the larger topics may be, there have been moments in the lives of thousands of men when the collection of their overdue wages was the most important thing in the world, because it meant the difference between food and hunger, and there have been similar moments in the lives of countless women when the collection of compensation for a husband's injury or death meant the difference between independence and destitution. At times our legal system has failed these plain, honest, humble folk in the hour of their need and it will continue to function imperfectly until more people are awakened to an accurate understanding of the situation and are prepared to give their support to definite remedial measures that have been devised in the last 10 years and that are already in successful operation in various parts of the country.

The outstanding characteristic of our American law is the spirit of fairness that pervades and permeates it. Our law is solicitous of the righteous claims of every man, be he rich or poor, and whether he be of high or low estate. Its ideal is to render exact justice to every person, whether citizen or alien, who lives within the jurisdiction of the United States. In so far as the goal can be attained by stating clearly the ends to be sought through our legal system, that has already been done in our Federal and State Constitutions in language that we can not hope to improve upon. In its conception it is sublime: No man shall be deprived of his life, liberty, or property without due process of law. Every man is entitled to the equal protection of the laws.

The history of these two great phrases has been summed up by Mr. Hannis Taylor in his book on "Due Process of Law and the Equal Protection of the Laws," as follows:

Just as due process of law is a purely English creation, so the closely related principle now embodied in the formula, "the equal protection of the laws," is purely an American creation. It is the natural and inevitable expression of that sense of equality which is the undertone of our national life. In the words of Mr. Justice Brewer: "Equality in right, in protection, and in burden is the thought which has run through the life of this Nation and its constitutional enactments from the Declaration of Independence to the present hour." That equality never adequately secured before, either by constitutional guaranties or by the common law, was put for the first time upon a firm foundation by the addition at the end of section 1 of the fourteenth amendment of the clause declaring that no State shall "deny to any person within its jurisdiction the equal protection of the laws." Such is the final outcome of the struggle instituted in the reign of Henry II, who undertook not only to establish the reign of law but to reduce all orders of men to a state of legal equality before the same system of law. That kind of legal equality which neither the constitutional nor common law of the mother country was ever able to establish has appeared for the first time upon the soil of the New World.

When a Massachusetts statute attempted to grant relief in the court of equity to certain persons and to deny it to others the supreme court of the State declared that the act was unconstitutional, saying: "It is one thing to affect the scope of equity by extending or restricting it; it is a quite different matter to enact that some citizens may resort to it while others may not. Absolute equality before the law is a fundamental principle of our constitution."

A contrast may help us to realize the majesty of our American concept of equality before the law. Writing in the *Illinois Law Review* for January, 1922, Mr. Allan J. Carter quotes a general order issued on November 1, 1918, by the Extraordinary Commission or "Chaika," which had unlimited power over the Russian judicial system, that contained the following direction:

Do not seek in the dossier of the accused for proofs as to whether he opposed the Soviet Government by word or deed. The first question that should be put is to what class he belongs, of what extraction, what education and profession. These questions should decide the fate of the accused.

The distinction between the legal rights of different classes had by the third century A. D. been deliberately set up by the Roman Government. Mr. William Stearns Davis tells us in his book, "The Influence of Wealth in Imperial Rome":

When men stood before the judge the first question would be: To what class do you belong? Are you one of the honestiores, a municipal official or ex-official, a great landowner—are you rich? Are you of the humiliores—a laborer, a small tradesman, an artisan, a petty farmer? In the latter case you can be beaten with rods, crucified, flung to the beasts, or suffer other cruel punishment; if you are rich, no matter how guilty you are, no such fate can befall you; the law will deal with you gently.

It is clear that the theory of American law is altogether sound and admirable and we may proceed to inquire how far we have succeeded in translating this theory into action. How far have we been able to secure actual equality before the law? There is excellent reason to believe that in the earlier stages of our national development the administration of justice did secure actual equality to a very satisfactory extent. It is unnecessary to idealize the past, but it is true that the courts faced a far simpler task. The people of the United States were vigorous, self-reliant, and homogeneous; shrewd common sense had been inculcated into them by the very conditions of life, for they lived in small towns and in agricultural communities. Comparatively speaking, there was little litigation and little need of it. In the lower courts the litigant could, and often did, plead his own case. When a lawyer was needed one could be secured at small expense or even for no fee, because nearly every man personally knew and was known by some lawyer in his community.

This much of past history is stressed only because it helps us to realize that whatever the shortcomings of our present administration of justice may be they are not inevitable nor are they incurably interwoven into the texture of our legal institutions, but are rather the result of the tremendous forces that, beginning with the last quarter of the nineteenth century, have irrevocably altered the complexion and the conditions of American life. Those forces were immigration, the rapid rise of the wage-earning class, and the ever-increasing growth of urban population, all differing aspects of the central fact that we were rapidly evolving from an agricultural to an industrial type of civilization.

"Regardless of the fact," writes Prof. Albertsworth in the *American Bar Association Journal* for July, 1922, "that population had enormously increased and large cities had grown up within a short time, all involving greater demands and speedier justice, court organization and procedure were left unchanged in this country."

No one realized quickly enough that our rigid court organization with its too mechanical rules of procedure would be unable to cope with these new conditions and would in fact be swamped by the enormous mass of litigation inevitably engendered by those conditions. For the breakdown that followed it is idle to blame any individual, group, or class. It has taken a large number of legal scholars many years of study and research to acquire a clear perception of the causes and the possible cures. In fact, it has been necessary to evolve a new conception of the duty of the administration of justice in a modern democratic urban community. The leader among these pioneering legal scholars has been Roscoe Pound, dean of the Harvard Law School, and his account of what has transpired may be accepted as an authoritative summary of the causes and events that produced the problem that to-day confronts us. In his latest book, "The Spirit of the Common Law," he states:

To deal adequately with the civil litigation of a city, to enforce the mass of police regulations required by conditions of urban life, and to make the criminal law effective to secure social interests, we must obviate waste of judicial power, save time, and conserve effort. There was no need of this when our judicial system was framed. There is often little need of it in the country to-day. In the city the waste of time and money in doing things that are wholly unnecessary results in denial of justice.

A third problem of the administration of justice in the modern city is to make adequate provision for petty litigation, to provide for disposing quickly, inexpensively, and justly of the litigation of the poor, for the collection of debts in a shifting population, and for the great volume of small controversies which a busy, crowded population, diversified in race and language necessarily engenders. It is here that the administration of justice touches immediately the greatest number of people. * * * The most real grievance of the mass of the people against American law has not been with respect to the rules of substantive law but rather with respect to the enforcing machinery which too often makes the best of rules nugatory in action. Municipal courts in some of our larger cities are beginning to relieve this situation. But taking the country as a whole, it is so obvious that we have almost ceased to remark it, that in petty causes—that is, with respect to the everyday rights and wrongs of the great majority of an urban community—the machinery whereby rights are secured practically defeats rights by making it impracticable to assert them when they are infringed.

Moreover, there is danger that in discouraging litigation we encourage wrongdoing, and it requires very little experience in the legal aid societies in any of our cities to teach us that we have been doing that very thing. Of all peoples in the world we ought to have been the most solicitous for the rights of the poor, no matter how petty the causes in which they are to be vindicated. Unhappily, except as the organization of municipal courts in recent years has been bringing about a change, we have been callous to the just claims of this class of controversies.

To insure clarity and to provide an adequate background for what follows it has been necessary in the foregoing pages to consider our basic legal ideas and something of our legal history; but the problem of making justice readily accessible to all, including the great army of our wage earners, is far more than an abstract legalistic controversy. It is a matter of life and death for a democracy because, in the words of Harlan F. Stone, formerly Attorney General of the United States and now a Justice of the Supreme Court, "it can not survive if it can not find a way to make its administration of justice competent." In similar vein Mr. Charles Evans Hughes says: "It is idle to speak of the blessings of liberty unless the poor enjoy the equal protection of the laws." Lord Shaw, in his address to the American Bar Association in 1922, stated the point without quibble

or evasion when he said: "That society is rotten where one citizen as against another can overpower him or undermine him by law wielded with an uneven hand. Only the blind, cruel, or the unjust in heart can wink the eye at this unnameable curse."

A final quotation taken from an address by Judge Kimbrough Stone, of the United States Circuit Court of Appeals, will serve to indicate the logical starting point for a critical analysis of the exact nature of our present difficulty: "Civilization can not exist without law. Law is useless unless actively effective." Granted that the fundamental principles of our law are sound, the question becomes how far have we succeeded in making the provisions of law actively effective amid the stress and strain of modern life.

CHAPTER II.—EXISTING DIFFICULTY

Our administration of justice often fails to secure actual justice in the actual case of the plain everyday citizen. This is not because we have too few courts or too few judges or because the judges fail to work diligently and faithfully in the endeavor to decide fairly and honestly every case that comes before them. On the contrary, when a case actually gets before the judge we may be reasonably sure that justice will be done. The difficulty is that innumerable cases never come before the judge because the persons who need judicial aid find themselves unable to get their cases into court. This again is not due to the fact that we have too few laws. The consensus of opinion is that our fundamental trouble, the root difficulty of the situation, is that we have failed to make our laws actively effective.

The Texas Bureau of Labor Statistics reports that within nine months ending September 1, 1922, 493 wage claims involving more than \$200,000 and affecting several thousand workers were referred to it and that it was able to make collections in only a small number of cases. The Bureau of Labor of Porto Rico in 1922 reported that in 70 per cent of the wage claims referred to it collections could not be effected. The Montana Department of Agriculture, Labor, and Industry in its report for the years 1919-1920 refers to "the difficulty so often experienced by the common laborer and the farm hand in the matter of collecting wages," and concludes: "It seems almost incredible that past legislatures have failed to provide some simple and inexpensive method of collecting wages of employees, other than the present prolonged, technical, and costly process of bringing suit in the civil courts." It is reasonable to infer that when a bureau composed of intelligent men failed to collect a wage claim, the wage earner if left to himself would find the task impossible. The laws of Montana and of Texas do not sanction the nonpayment of debts; in common with the laws of all other States they require wages to be paid and they provide for a suit in the appropriate court to enforce payment. Doubtless the American Telephone & Telegraph Co. collects its bills in these States as it does in all other States. But for the average man generally throughout the country the laws have not been actively effective. As the Commonwealth Club of California in a special report on this subject stated in 1920, "the cost of collecting small claims by suit at law is now so

great and is subject to such delays that the poor man must endure his losses, however unjust they may be."

In the field of personal injuries—a matter of vital interest to wage earners—it must be admitted that the old master and servant law, even if it had been properly enforced, was utterly inadequate. In a decision written by Justice Winslow, of the Supreme Court of Wisconsin, the situation has been given its classic exposition:

In the days of manual labor, the small shop with few employees, and the stagecoach there was no such problem, or, if there was, it was almost negligible. There was no army of injured and dying, with constantly swelling ranks marching with halting step and dimming eyes to the great hereafter. This is what we have with us now, thanks to the wonderful material progress of our age, and this is what we shall have with us for many a day to come. Legislate as we may in the line of stringent requirements for safety devices or the abolition of employers' common-law defenses, the army of the injured will still increase, and the price of our manufacturing greatness will still have to be paid in human blood and tears. To speak of the common-law personal injury action as a remedy for this problem is to jest with serious subjects, to give a stone to one who asks for bread.

The Pittsburgh survey revealed that out of 355 cases of married men killed in accidents 89 dependent families received nothing, 113 received \$100 or less, and 61 received between \$100 and \$500. Workmen's compensation legislation was speedily enacted in 43 States, and the antiquated theory of liability for fault gave way to the modern and more humane principle of insurance for all work accidents. The lasting success of the compensation acts, however, lies in the fact that they provided new methods of making the law actively effective by tearing down, as we shall see later in Chapter IX, those procedural obstacles that prevent an efficient administration of justice.

Despite an era of prolific legislation, no such drastic overhauling has been found necessary in any other department of the substantive law, and the statement seems warranted that, certainly within the domain of the law regulating civil rights and obligations, no radical changes are needed. The huge majority of our citizens do not become involved with the criminal law. Throughout their lives it is the civil law on which they must rely for the protection of their rights and the enforcement of their claims. The title to a man's home, the rights and obligations under a lease, the power to withdraw money deposited in a savings bank, the collection of wages, claims for industrial accidents, the enforcement of insurance contracts, divorce and judicial separation, the custody of children, the right to have property pass on a man's death to his heirs or according to his will—all these are matters governed by the civil, as distinguished from the criminal, law.

To make these laws actively effective the State quite naturally and properly relies on the self-interest and initiative of the individual. The theory is that when he is wronged or aggrieved he will promptly bring the matter to the attention of the proper court; thus the State has notice, and it will compel the defendant to appear before the same court and stand trial. This is sound theory, but it is precisely at this point that the whole plan may break down completely.

What if a citizen for any reason can not bring his wrong to the attention of the courts? Then the State knows nothing about it, the law is utterly inactive, and the defendant is immune from a

legal judgment against him. Unless the law can be enforced through the courts it fails to work and is of no help whatsoever. That is why the machinery of justice is of such vital concern. The machinery of justice, designed to be only the servant of the law to insure swift compliance with its orders, is in a sense the master of the law because whenever it fails to operate it can and does prevent the law from ever reaching the suitor who needs its aid and protection.

The machinery of justice is necessarily extensive and it can not be stated in detail here. Its essentials, however, are these: It prescribes the form of action that can be brought in any given case, the court in which the case must be heard, and the time when cases may be entered. It regulates the court fees and costs for the entry of the case and for subsequent proceedings. It fixes the form and manner of service of legal process on the defendant, and specifies when and how he must answer. It controls every successive stage of the case until it comes before the court for trial. At the trial it regulates the order of procedure, it lays down rules of evidence, and the way in which points may be reserved for an appeal. After judgment has been rendered it prescribes minutely how the sheriff may collect the judgment out of the defendant's property and it provides various kinds of supplementary proceedings designed to enforce the judgment or order of the court.

It is the machinery of justice that gives life to the law. It is the administration of justice that makes the laws actively effective. It results that if the laws are to afford their equal protection to all persons in a modern community the machinery of justice must be readily accessible to all, must be easily workable by all, and must be swift in its operation.

Our present difficulty arises because we have not yet refitted our whole system to meet the new demands of our urban populations. Entirely too many citizens find in actual experience that access to the courts is difficult, that the procedural machinery is complicated beyond any hope of their understanding and utilizing it, and that the legal system moves so slowly in their behalf that no prompt and summary relief can be obtained. Our immigrant population, burdened by the added handicap of unfamiliarity with our language, fares even worse. This particular aspect of our problem need not be elaborated here, because it has already been fully presented by Miss Kate Claghorn in her book, "The Immigrant's Day in Court."

We can now specify the three factors which impede the even course of justice when its protection is sought by a wage earner or by any person of small means. The first factor is delay. In the words of the chairman of the judiciary section of the Commonwealth Club of California, whose special report on this subject has already been quoted, "There is too great delay; there are too heavy costs—court costs and witness fees. The expenses of counsel and the waste of time are too great." Similarly, the late President Woodrow Wilson stated: "The speediness of justice, the inexpensiveness of justice, the ready access of justice is the greater part of justice itself." The second factor is the expense involved in the payment of court costs and fees. The third factor is the necessity of employing law-

yers in most cases if the suitor is to have any chance whatsoever to succeed. These are the three contributing causes of our present problem. The next step is to analyze them in detail so that we may understand their exact nature and thus find out how far and in what ways their disturbing effect on the administration of justice may be eliminated or overcome.

CHAPTER III.—DELAYS IN LEGAL PROCEDURE

In all discussions of legal reform the evil of delay is emphasized. It has become an axiom that justice delayed is justice denied, and Judge Clayton, of the United States District Court for Alabama, well says "this is more than a mouth-filling phrase; manifestly it is a truth."

Public attention has been focused on this factor in our problem, and excellent studies into its nature, extent, and results have been made. Hugh E. Willis, in the *California Law Review* for July, 1920, writes, "The average length of a lawsuit in the United States has been appalling." The Ohio Industrial Commission has analyzed 58 recent suits for damages for personal injuries and its report quoted in the *Monthly Labor Review* of the United States Bureau of Labor Statistics for December, 1923, shows that the average delay in these cases was two years and five months. A special committee of the Illinois Bar Association, by a report dated November 25, 1919, states that in Chicago "the average life of a contested lawsuit—that is, one contested through to the very end—is now and for the past 20 years has been from 5 to 7 years." In a communication to the *New York Times*, printed December 16, 1922, it appears that in 1921 the supreme court of New York County alone had 21,308 cases awaiting trial. During 1921, 13,223 new cases were added. The judges by straining every resource managed to dispose of 8,938 cases in 1921, but even so they had fallen behind, and in 1922, 25,593 cases were awaiting trial with little prospect of being reached for more than two years.

Delay begets delay. Like compounding interest it is cumulative and the evil, once in existence, tends to aggravate itself. That the effect of delay in the cases of wage earners is to rob them of any real relief is obvious. Mr. E. H. Downey, of the Pennsylvania Insurance Department, in his report on the Ohio State workmen's insurance fund (printed in *Monthly Labor Review*, October, 1919, pp. 248-264), is dealing especially with compensation cases, but his words apply equally well to delays in all types of litigation; "Few workmen have such surplus of income that they can afford to wait weeks or months for the commencement of compensation. When the weekly pay check stops destitution is never far away."

The tragic result is that persons of small means, knowing that they can not afford the delay, simply do not bring their cases to the courts at all. They have to accept the injustice done them and suffer in silence. This is peculiarly true of that part of the wage-earning class that is recruited by immigration. The bulletin of the Foreign Language Information Service for August, 1922, makes the matter clear.

Even the most casual observer of immigrant experiences must frequently have noted the victimizing of the newcomers by unscrupulous promoters, land agents, loan sharks, money changers, and notaries. It is difficult and often impossible to obtain legal redress in these cases: First, because of the immigrant's helplessness in knowing what to do or to whom to go, and second, because the process of the law is so slow and involves so much time and effort that the victim usually drops the matter in despair.

Much can be done, much has already been done, to eliminate the factor of delay. Judge Morton, of the United States District Court for Massachusetts, has estimated "that 50 per cent of the law's delay is caused by appellate proceedings." Certainly that is true in all States where every small case can be appealed and thus be tried twice as a matter of right. The system of having a case tried before an inferior or justice's court and then permitting either side to appeal to a higher court, in which the case is tried all over again, has long been a curse in American court organization and is a prolific source of delay. Double trials on the facts were abolished throughout Massachusetts for the reason stated by the Massachusetts Judicature Commission in its 1921 report. "Trying small cases twice, maintaining courts for the conduct of ineffective trials, is merely consuming the time and money of parties and witnesses, many of whom can ill afford the loss and delay involved in two trials."

If the decision of the lower court is to be final, then the character of that court must command public respect. The modern type of municipal court—for example, those now established in Boston, Chicago, Cleveland, Minneapolis, New York, Philadelphia—marks a tremendous advance over anything that preceded it. It is the consensus of opinion that delays in the higher courts can best be lessened by a centralized or unified form of court organization and by vesting in the courts the power to control their own machinery through their own rules. Later chapters will point out special methods that can be used to reduce to a minimum the delay in certain classes of cases of especial importance to wage earners. Here we are concerned chiefly with explaining delay as a factor in our problem and with pointing out its baneful effects.

Because the factor of delay is in the foreground of public discussion there is good reason to hope that reforms aimed to rid the machinery of justice of undue delay will make steady progress. This emphasis on delay has tended to distract general attention from any thorough consideration of court costs and of the necessity for employing counsel. Certainly these two factors cause as much trouble as delays, and from the point of view of the wage earner they constitute even greater obstacles in his search for legal justice. It is fitting, therefore, that this bulletin should deal with them thoroughly so that public opinion may be brought to a clearer realization of their serious importance.

CHAPTER IV.—COURT COSTS AND FEES IN LITIGATION

From the earliest times the payment of money in the form of court costs and fees has been a condition precedent to the right to bring a case into court. And throughout the history of English-American law these costs and fees when applied to the cases of poor persons have constituted a formidable legalized obstacle in the path

of justice. Too often they have proved insurmountable and the unfortunate suitor has found his access to the courts as completely and irrevocably barred as though the doors of the courthouse itself had been locked against him. Yet not until 1923 was any thorough and scholarly study of the subject made. In February of that year the Harvard Law Review published Prof. John M. Maguire's notable article entitled "Poverty and civil litigation," which has since been reprinted in various American and English periodicals and is now accepted as the standard exposition of this second factor in our problem. The history of court costs and fees and of the many unsuccessful attempts to eliminate or circumscribe them in so far as they were directly causing denials of justice is there related, and the reader who desires the story in greater detail than the space of this bulletin permits is referred to that treatise.

There are two classic cases illustrating the fate of the man who can not pay the imposts fixed by the State as the price of justice. Early in the nineteenth century England was shocked out of its indifference to the problem of costs by the case of a laboring man named Hall whose wife, Mary Ann, robbed him and then left him, to live with another man. Hall could not pay the fees required to obtain a divorce. He lived with another woman as his wife and was thereupon convicted of bigamy. He came before Justice Maule for sentence and the following remarkable colloquy took place.

Hall remarked that he had been hardly used. "No doubt," replied the judge, "but such is the law. The law in fact is the same to you as it is to the rich man; it is the same to the low and poor as it is to the mighty and rich, and through it alone can you obtain effectual relief, and what the rich man would have done you should have done."

"But I had no money, my lord," exclaimed Hall.

"Hold your tongue," rejoined the judge. "Yes, Hall, you should have brought an action and obtained damages, which the other side probably would not have been able to pay, in which case you would have had to pay your own costs, perhaps a hundred and fifty pounds. But even then you must not have married again. You should have gone to the ecclesiastical court and then to the House of Lords. It is very true, Hall, you might say, 'Where is all the money to come from to pay for all this?' And certainly that was a serious question, as the expenses might amount to five or six hundred pounds while you had not as many pence."

"As I hope to be saved, I have not a penny, I am only a poor man," said Hall and then he received his sentence of three months.

We may then turn to page 174 of the eleventh volume of the Encyclopedia of Law and Procedure and read that under the statutes of certain States if a plaintiff is apparently too poor to be able to pay any costs that may be assessed against him he may be required to furnish security for costs. If, being poor, he can not furnish security, what then? Such was the position of one Campbell and his case was accordingly dismissed. He appealed and learned from the decision, which is reported in volume 23 of the Wisconsin Reports at page 490, that "We have no statute which permits a person to sue in forma pauperis. It seems almost like a hardship that a poor person should not be allowed to litigate. But this is a matter for the legislature to regulate and not the justice."

Why American legislatures have paid so little attention to court costs it is difficult to understand unless the answer be that the matter has never been adequately presented to them. Certainly our record is as bad as that of any civilized nation in the world. The countries of Europe and Scotland have for many years had a definite procedure whereby poor persons could bring their claims into court. England, Japan, and now Poland have made similar provision. Professor Maguire finds that over one-third of our States give no relief at all of this sort to poor litigants and that in the remaining States the provisions are only partially adequate. He concludes: "It is hard to discern in any of our existing laws even the foundations of a comprehensive and effective plan for bringing justice within the reach of all. We should lose little and gain much if we stripped away most of our fragmentary in forma pauperis law."

Our failure to grasp and to deal adequately with this problem has undoubtedly caused innumerable cases of hardship and too many cases of downright injustice. Judge Clayton, of the United States District Court for Alabama, states in the *Journal of the American Bar Association* for January, 1922:

One of the complaints against the administration of justice is the expense that the State levies in the form of court costs and fees, which often serve to prevent access to the court. Especially is this true in the justice court, courts of common pleas, and the like, in some of the States. In many of these courts, courts with which the poorer class of our citizens come in contact, the costs in some cases are so excessive as to practically amount to a denial of justice.

President Judge Brown, of the Philadelphia municipal court, in an address delivered on November 2, 1919, said: "The cost bill in the municipal court is approximately \$12 exclusive of the sheriff's costs. The litigant can save \$4 if he elects a trial without a jury. It does not need any argument to show that a litigant should not be obliged to pay from \$8 to \$12 for costs on a suit where the amount involved is \$50 or less." Prof. Thomas A. Larrimore, in the June, 1921, number of the *Oregon Law Review*, gives this as the result of his observations: "As to court costs, the statutes and decisions requiring prepayment of filing fees as conditions precedent to entry into court are vicious and give the poor man in Portland just cause for complaint."

It is impossible to present any statement of our present system of court costs, because there is no system. They vary from State to State; within a State they are utterly different in different courts, and in the same court the fees in an equity case are not the same as in a law case. No legal student, so far as we know, has ever attempted to explain the present American hodgepodge of costs and fees. Probably it would be a profitless task because such an exposition would only prove that utter chaos prevails and that we already know. Judge Andrew A. Bruce's book entitled "The American Judge," contains an illuminating chapter on "The cost of litigation." The views expressed in this chapter find support in his conclusion that "These excessive costs and these unnecessary delays close our courts to the average citizen. The best antidote for anarchism is to implant in the minds of all the belief that at the

great bar of the law all are equally favored and that poverty in America does not stand in the way of complete justice."

Poverty to-day does stand in the way of complete justice and it will continue to do so until public opinion forces a radical overhauling of our archaic system of court costs and fees. However great the muddle we are in, the way out is reasonably clear.

First of all we would do well to abolish those costs which are purely fictitious, which are imposed by the State but bear no real relation to any service rendered by the State, and which when collected do not even go to the State but belong to the party that prevailed in the litigation. The clerk of the Boston municipal court recently appealed to the Massachusetts Legislature to eliminate all such fictitious costs and cited actual cases from his records. In one case the judgment was for \$41.42, the costs amounted to \$47.54, of which all but \$2.15 were fictitious; in another, judgment was for \$55.04, the costs were \$31.60, and of this sum \$29.45 represented fictitious costs.

Costs can be substantially reduced. The modern municipal courts have succeeded in reducing fees very substantially. Instead of serving process by constables or by sheriffs at a cost of \$1 to \$5 the defendant can be summoned by United States mail, a method that has been successfully employed by the Cleveland municipal court for nearly 10 years.

The State is perfectly justified in asking litigants to contribute something toward the expense of the administration of justice. No one, however, has contended that the full burden of maintaining the courts should be thrust on the litigants. The State exists primarily to establish justice among its citizens. How low a tariff it should impose is essentially a matter of public policy and not a matter of revenue. Even if costs were substantially lowered, there would still be many cases of persons too poor to pay them, and there would be clear instances where no fees at all ought to be paid. A deserted wife turns to the State for legal relief against her husband generally with great reluctance and only when her funds are entirely exhausted, and it is morally wrong and socially unwise to present her first of all with a bill of costs. After the World War every effort was made to return the personal effects of soldiers who had been killed to relatives or to other persons in accordance with the soldier's expressed wish. In a report dealing with the carrying out of this humane plan this sentence occurs, "It frequently happens that it is advisable to recommend application for letters of administration; but this can be made only in jurisdictions free from vexatious delays, where the fees are little or nothing; in some States the laws are inflexible and the fees prohibitive."

As a last resort there is only one method that can guarantee to every man, irrespective of his poverty, his day in court, and that is by the enactment in every State of a comprehensive *in forma pauperis* procedure. By this is meant a law, applicable to every case in every court, under which the court may in suitable instances and for cause shown permit a man to file his case and have his trial without any requirement for the prepayment of any costs.

While the general scope and purpose of such a proceeding is perfectly clear, the experience in England ever since 1495 proves

that any attempt to extend this relief will come to grief unless the statute is drawn with infinite pains. The most careful effort thus far made in America is contained in the model in forma pauperis act drawn by the committee on legal aid work of the American Bar Association in 1924. Wide discussion of this draft statute is so important that the text of the proposed statute is reprinted in this bulletin as Appendix A. As the draft statute is accompanied by explanatory notes it is unnecessary for us here to dwell on its provisions in detail.

The factor of court costs can undoubtedly be overcome through a proper in forma pauperis proceeding. The New York in forma pauperis statute, although it does not apply to all cases, was in 1920 invoked in 4,665 cases in the municipal courts of New York City. To enable any in forma pauperis proceeding to accomplish fully its avowed purpose three difficulties must be overcome. In the first place, this special grant of assistance by the State is designed only for the benefit of honest persons with honest claims. It must not become the tool of unscrupulous persons with claims that are dubious or worse. Some preliminary sifting must be done, the fact of poverty must be proved, and the applicant must demonstrate that his suit is reasonable enough to take up the time of a court. To throw the burden of this preliminary investigation onto the already overburdened courts would be disastrous. Some auxiliary administrative method must be utilized, and for that the above-mentioned draft statute provides.

In the second place, there are certain expenses attendant on litigation which can not be eliminated. So long as legal process is served by sheriffs who depend for their livelihood on their fees, those fees must be paid by the litigants or else the State must assume the burden, as has been done in some jurisdictions, by placing the sheriff on a definite salaried basis. The witness who is summoned to court to testify loses his day's work and it is only right that he should be recompensed. No progress is made by helping a poor litigant at the expense of a witness who may be equally poor or poorer. The stenographer who takes the record of the testimony (which is essential if an appeal is in contemplation) works hard, earns what he is paid, and can not be expected to labor for nothing. In Louisiana the State may provide free stenography; elsewhere, we believe, the litigants must themselves pay the cost. The position of the printer who prints the record for the appeal is the same as that of the stenographer. It is clear that the man of limited means must either try his case as best he can without incurring any of these expenses or else the State must, directly or indirectly, pay the bills for him. In the past this idea has met a cold reception because it seemed an open invitation to raid the public treasury. A proper in forma pauperis procedure would make that impossible, because State aid, as provided in section 14 of the draft statute, could be had only in approved cases and under suitable restrictions. In only a few cases, chiefly test cases, would stenographic and printing bills be incurred. Once it can be made clear that the actual expense to the State would be small, progress may become possible. The average annual cost of our State administration of justice is less than 18 cents for each inhabitant. State aid as above outlined would not increase this cost by the hundredth part of a cent.

When we remember that the fundamental purpose for which the administration of justice exists is to guarantee the equal protection of the laws to all persons, not merely those men who can pay the price but all persons, it would seem worth while for the State to incur a moderate expense in order to achieve its own ideal. The Chief Justice of the United States dealt with this problem as it exists in the Federal courts when he spoke at the rededication of the original United States Supreme Court Building in Philadelphia on May 2, 1922, in these words: "Much remains to be done in cheapening litigation in the Federal courts by reducing costs or transferring them to the public treasury."

The third and last requirement for the successful operation of any adequate *in forma pauperis* proceeding is that somehow provision must be made so that whenever necessary the impecunious litigant may secure the services of an attorney to advise him and to conduct his case. Indeed, without such provision, everything else is in vain. To enable a man to get into court and then to expect him to conduct his own case without help and without representation would be no more sensible than to put a boy in the cab of a locomotive of the Twentieth Century Limited and to expect him to drive the train safely to its destination. And the reason is the same. The law is necessarily a complex piece of mechanism and it can be operated only by those specially trained persons who devote their lives to an understanding of it. How to include the services of lawyers as a part of *in forma pauperis* procedure is only one aspect of the larger problem of how to secure the services of lawyers for poor persons generally. This is the subject of the next chapter and the attempt to answer our immediate question must be deferred until we have examined the problem as a whole and have obtained a clearer realization of the part that lawyers take in the actual administration of justice.

CHAPTER V.—NECESSITY FOR EMPLOYING ATTORNEYS

We have thus far seen that the wage earner has difficulty in obtaining the equal protection of the laws, not because of any partiality in the laws themselves or in the courts that enforce the laws, but because of serious flaws in the machinery of justice. We have seen that our failure to readapt our administration of justice rapidly enough to the changed and novel conditions of our modern, urban, industrial life has resulted in a breakdown that is specifically attributable to three factors, of which the first two—delays and court costs and fees incidental to litigation—have been considered.

The third factor—the necessity for the employment of an attorney whenever a litigant wishes to understand what his rights are and how to enforce them through appropriate legal proceedings—is quite commonly overlooked altogether or when not overlooked it is generally misunderstood. No progress can be made until the strategic position of the lawyer in the administration of justice is clearly perceived and no worth-while reform can be planned that does not take this factor into full account. Indeed those legal scholars who have devoted their attention to the general problem of improving the position of persons of limited means be-

fore the law are of the opinion that the necessity for securing to such persons the services of competent attorneys is the most important and the most difficult part of our task.

Thus Professor Larrimore, whose survey of conditions in Portland, published in the June, 1921, Oregon Law Review, we have already quoted from, says: "It seemed that cost of counsel forms in Portland the principal obstacle in the path of the impecunious litigant seeking justice, notwithstanding certain ameliorative measures already taken in certain special fields."

Procedural reform may speed up the judicial machinery and thus eliminate delays; court costs can easily be abolished in part, reduced in part, and prevented from working injustice by the provision of an adequate in forma pauperis procedure. Though all this is accomplished the wage earner, in common with every other citizen, will need the assistance of an attorney in most of the legal matters that arise in the course of his life.

When it is said that the expense of engaging lawyers places a serious handicap on the less well-to-do members of the community the unthinking reply is apt to be, "then let's abolish the lawyers." This has been attempted at various times in the world's history and it has always failed. It was attempted in our own colonial era and the experiment was disastrous. After the revolution in Russia a determined effort was made to destroy the bar as a privileged class but it instantly appeared that the legal business of the country could not be operated without attorneys. The abolition of lawyers would paralyze our administration of justice as completely as the abolition of all judges, for as Mr. Justice Miller, of the Supreme Court of the United States, wrote in the case of *Ex parte Garland*:

It is believed that no civilized nation of modern times has been without a class of men intimately connected with the court, and with the administration of justice, called attorneys, counsellors, and other terms of similar import. They are as essential to the successful workings of the court as the clerks, sheriffs, and marshals, and perhaps as the judges themselves, since no instance is known of a court of law without a bar.

The reason for this is simple enough. It is like attempting to abolish doctors, engineers, and architects. The erection of a modern building is a complicated matter; its planning calls for a high degree of special skill and the few men who have mastered that skill we call architects. To construct railroads or to build subways presents complicated technical engineering problems that the average man would be utterly unable to solve, and civilization requires the services of mechanical and civil engineers. Human life daily becomes more intricate; day by day every man finds himself involved in closer relationships with, and more dependent upon, the fellow members of his community. The law which seeks to regulate this life and its manifold relationships steadily becomes greater in its scope and more complicated in its provisions.

No one knows how many laws and decisions of courts there are in the United States to-day. The Library of Congress has reported that from 1915 to 1920, 62,014 new statutes were passed and 65,379 decisions were rendered by courts of last resort. The published decisions of the State courts for the year 1914 total over 18,000. The difficulty of understanding the law, even for lawyers and judges, has now become so great that two years ago eminent leaders of the pro-

fession formed the American Law Institute for the sole purpose of restating and simplifying our law.

The intricacy of modern law is made dramatic by the case of *Garcia, administrator, v. Western Fuel Co.*, which was finally decided by the Supreme Court of the United States. (Vol. 42, Supreme Court Reporter, p. 89; Monthly Labor Review, February, 1922, pp. 131-133.) On August 5, 1916, Manuel Souza, a stevedore, was instantly killed while working in the hold of a vessel anchored in San Francisco Bay for unloading. On April 25, 1917, a claim was made for workmen's compensation and the California Industrial Accident Commission made an award in favor of the widow and children. On May 2, 1917, in the case of one Jensen, the Supreme Court of the United States decided that stevedores while on vessels were not protected by a State workmen's compensation act. Therefore Souza's employer appealed from the award of the California Industrial Accident Commission to the California Supreme Court, which annulled the award on August 6, 1917, exactly one year and one day after Souza's death.

In August, 1917, the widow brought a suit in admiralty in accordance with the Jensen decision. The law required the suit to be brought by an administrator, so Antone Garcia was appointed. He prosecuted the case; the court found that Souza's death was caused by the negligence of the hatch tender and \$10,000 damages was awarded. In February, 1919, the Circuit Court of Appeals affirmed the decision, but in October, 1919, on reargument, it reversed the decision on the ground that the hatch tender was a fellow servant of Souza for whose negligence the employer was not responsible. The case then went to the Supreme Court of the United States, which upheld the decision of the trial court in principle but found that under California law this case had to be brought within one year from the date of death, and therefore dismissed the case. If this case, in which the widow was ably represented by counsel who fought in her behalf through to the highest court in the land, ended in tragedy because of the virtual impossibility of selecting the right legal course of action to follow, what chance to obtain justice in any matter presenting any complications can there be for those who are unable to procure the services of any counsel to plead in their behalf?

Lawyers devote their lives to the study and practice of law. For their living they must depend on the fees paid by clients. No question of whether charges for legal services are high or low need detain us, because even when they are reduced to the lowest point which will enable the lawyer to support himself and his family there will remain a multitude of our fellow citizens who can not pay those fees.

Nothing would be gained by any attempt to fix with mathematical certainty the number of persons who may be debarred from justice because of their inability to retain counsel, but a rough approximation does help us to realize the magnitude of the factor with which we are now dealing. The best general figures are in the study of "Income in the United States" made by the Bureau of Economic Research and based primarily on an analysis of the income tax figures for the year 1918. The population of the United States, exclusive of its outlying possessions, was over 105,000,000 according

to the 1920 census. This population consists of men, women, and children many of whom obviously are not engaged in work and have no income whatsoever. The Bureau of Economic Research estimates that the number of persons who had any income from wages, salaries, business profits, dividends, or any source whatsoever was in 1918 about 37,500,000. Of these, 54 per cent, or approximately 20,250,000 persons, had incomes of less than \$1,200 per annum.

It is not unreasonable to conclude that after they have paid for the bare necessities of life these 20,000,000 earners, together with an equal number of women and children dependent on them who also may need the protection of the laws, have no surplus with which to pay lawyers' fees. Royal Meeker, former United States Commissioner of Labor Statistics, estimated that the average family would require \$1,200 to support itself in Washington in 1916 and would need \$1,800 in 1918. The New York City Health Department gathered data as to 2,084 families, which were not specially selected but were mainly families visited in connection with the official supervision of illnesses such as tuberculosis, diphtheria, and scarlet fever. From the report published in the New York Times for July 27, 1919, it appears that 72 per cent, or 1,500, of these families had annual incomes of less than \$1,200. Three hundred and seventy-four families had been forced into debt, in 244 the housewives or the children had gone to work, and 191 families had been obliged to seek charity. In many of these homes meat, eggs, butter, and bottled milk had been given up. Under such circumstances it is clear that no money is available for the payment of lawyers' services. E. H. Downey, in his book, "Workmen's Compensation," after marshaling an imposing array of facts as to average wages, says: "It needs no argument to show that families in receipt of incomes such as these can have neither property, savings, nor insurance of substantial amount. The ugly fact is that American wage workers, with few exceptions, are always near the poverty line."

Yet these millions of persons, and especially the larger proportion of them who live in cities, may at any moment and through no fault of their own find that they need legal advice or legal assistance in the enforcement or defense of their personal and property rights guaranteed them by the law of the land. This is the great dilemma; this is the core of our problem. The remainder of this bulletin is devoted to its solution, showing that in certain kinds of cases it may be partially solved through new types of courts or administrative tribunals, but that in most instances a permanent solution can be had only by facing the issue squarely and by supporting those new agencies which have come into being for the avowed purpose of supplying the services of lawyers to all persons who need legal aid and are unable to pay for it. But before taking up a consideration of these new plans that seem so full of promise if they can be wisely developed, let us pause long enough to see what the administration of justice itself has done, or attempted to do, in this direction.

Poverty is perennial, and impecunious suitors have on occasion besought aid from the courts throughout our legal history. In one of the earliest English law books we find a petition filed before the justice in Eyre by William, son of Hugh of Smethumilne, which

concludes: "And I pray you for your soul's sake that you will give me remedy of this, for I am so poor that I can pay for no lawyer." On May 2, 1922, a widow, Ann Dolan, filed an affidavit in the United States Court for the District of Massachusetts which read, in part, "I possess no property, real or personal, nor have I money. I am, therefore, unable to pay costs of a suit against the United States in the equity court for damages. My husband was a soldier in the War of the Rebellion. I petition the court to assign counsel and to provide for the prosecution of the suit."

Courts have recognized the seriousness of the point involved. In an Iowa decision we find "So limited and restricted is the sphere of action prescribed for the judge as to proceedings on trial touching matters of fact that without the aid of able and experienced counsel the poor and ignorant man would often find accusation and prosecution tantamount to conviction." The Supreme Court of Wisconsin has summed up the very issue that confronts us in this chapter by asking: "Would it not be a little like mockery to secure to a pauper these solemn constitutional guaranties for a fair and full trial, and yet say to him when on trial that he must employ his own counsel, who could alone render these guaranties of any real permanent value to him?" And the court answers the question by stating: "It would be a reproach upon the administration of justice if a person thus upon trial could not have the assistance of legal counsel because he was too poor to secure it."

The only method evolved by our administration of justice for meeting this difficulty has been the system of assigning counsel. The theory is that a lawyer is an officer of the court and is bound by his professional oath to render gratuitous service to poor persons. This same conception may be found in the legal systems of nearly all civilized countries. In practice it has never worked satisfactorily. Mr. Hughes, ex-Secretary of State, in an address before the American Bar Association in 1920, stated: "In our great cities the time-honored practice of assigning counsel is not in good repute." In "The American Judge," Judge Bruce, in dealing with this point as it affects the poor man, writes: "Often an attorney is appointed by the court to defend him, and this person is usually a boy or one equally inexperienced; even if he be a well-trained lawyer, since he gets practically no compensation and takes the case merely as a matter of duty, he often gives to it but little attention."

The practice as to assigning counsel differs sharply as between criminal and civil cases. Assignments in criminal cases relate so closely to the discussion of the public defender that in Chapter XI, describing the defender in criminal cases, will be found further detail; here we are concerned only with the general and broad outlines of the assignment system. In criminal cases the statutes in 18 States require assigned counsel to serve without any pay. In 30 States the compensation is generally so small as to be nominal. Some of these States allow a reasonable fee in murder or capital cases, but make no provision in cases where a lesser crime is charged. Thomas S. Mosby, who compiled these figures in the American Bar Association Journal for July, 1924, concludes: "The system prevailing in a majority of the States, as will be noted from the foregoing summary, works a great hardship upon lawyers; and in many

instances it must necessarily work an even greater hardship upon the indigent defendant."

In civil cases statutes authorizing the assignment of counsel exist in only 12 States. None of these statutes provides any compensation to the lawyer. Judge Levy, of the New York municipal court, in speaking of the statute authorizing the court to assign counsel without compensation, stated to the New York State Bar Association in 1920: "The power of the court has frequently been invoked in that direction." How frequently, we do not know, but subject to this exception, the general rule throughout the United States is not to assign counsel in civil cases at all. As civil cases constitute the bulk of the cases in which wage earners, as well as other litigants, are interested, the statement is warranted that the assignment system has failed.

It has failed because it is based on an economic fallacy. We may be reasonably confident that this is the true reason because the same economic considerations in various countries have produced precisely the same breakdown in the assignment-of-counsel plan. As good a statement as can be found is contained in a paper presented at the International Conference on Legal Aid Work, held at Geneva in 1924, by Mr. Silvio Longhi, first president of the Court of Appeal, who in commenting on the assignment system in Italy, where it has existed since before America was discovered, said:

The duty of gratuitous assistance is not accepted with enthusiasm by lawyers of the widest experience and reputation, who are for this reason engaged in other more remunerative tasks; and when the duty is accepted it is now and then neglected. Thus poor persons' suits are necessarily almost always put in the hands of attorneys with small practices and of those just beginning to practice, who in their turn are not in a position to devote themselves to cases without profit. Finally, there is no doubt that the system of free defense does not give all the results that a paid defense could give, and so a poor person is given tardy and second-rate help. This is due to the fact that the system is based on a false theory, on the economic mistake in supposing that free help can be given with as much efficiency as paid help. However high the bar's standard may be—and it is very high—it has not moral strength to struggle for any length of time against the law of recompense for human activity; and if, taken all together, the system of free help does not measure up to those social exigencies to which one would wish to apply it, this is not to be laid to the attorneys but exclusively to the illusion of the legislator who believes he can solve a serious problem with fine words: As by announcing that this free help is an "honorable activity" of the legal profession.

The most recent attempt to solve the problem of the expense of lawyers' services by invoking the system of assigning counsel without pay is to be found in England, where under the Poor Persons Rules of 1914 the supreme court can assign any solicitor and any barrister to act for a poor person in any approved civil case within the jurisdiction of the court. Prof. Maguire, in connection with his article on "Poverty and civil litigation," studied the English system in 1923 and found "The great problem in England has been to secure the necessary lawyers' services." Appeals for volunteers have frequently appeared in English legal periodicals. Many solicitors and barristers have served at great personal sacrifice, but thousands of cases, each involving hard work and serious responsibility, can not be handled on the basis of charity. To relieve the poor of their burden by thrusting it entirely on the bar never has worked and there is no reason to expect that it ever will work.

That the English experiment has proved unsound appears in a paper entitled the "Poor and the Law" read to the English Law Society in October, 1923, by Mr. P. H. Edwards, a London solicitor, who starts with the generally accepted fact of "the breakdown of the present method of dealing with poor persons' cases."

The assignment plan has been an altogether inadequate solution, but it should not be abandoned. Potentially it has great usefulness and if reasonable compensation were allowed to assigned attorneys the inherent weakness of the plan as it now exists would be removed. In Norway, Denmark, and Sweden assigned counsel are paid a reasonable fee fixed by the court. By a 1917 act Illinois has provided that attorneys assigned to defend indigent married women in divorce cases shall be paid. The Pennsylvania Commission on Constitutional Amendment, in its report dated December 15, 1920, recommended that the courts be given power to assign counsel in any suitable case, such counsel to receive compensation out of the county treasury.

Any thorough plan for adapting the machinery of justice to modern conditions should include some provision for assignment of counsel so that the courts would have power to act to prevent injustice as occasion might arise. The wise exercise of the power would probably serve as a complete solution of the difficulty in smaller communities and in the sparsely settled districts. For the great urban communities, where the need is far more extensive, it could serve as a last resource but in actual practice it would need to be invoked only rarely for our American experience indicates another more efficient, more economical means whereby the desired result can be accomplished.

CHAPTER VI.—DEVELOPMENT OF REMEDIAL AGENCIES

The social and economic forces that have so radically altered the conditions of life in America and that, as we have seen in preceding chapters, caused a breakdown of serious proportions in our administration of justice first made themselves felt in the last quarter of the nineteenth century. A generation passed before the American people were made aware of what had happened in their most vital domestic institution. During that time the wage earners and the humbler classes generally had to exist without ample protection from the law. If their wages were unpaid, their only redress lay in civil litigation, which was protracted and expensive beyond their means. If they were injured, their only recourse was a suit for personal injuries, their path was strewn with technical traps such as the fellow-servant rule and the doctrine of assumption of risk, a lawyer had to be secured on a contingent fee basis, and the best that could be expected would be a verdict after the lapse of two or three years. Because of their legally defenseless position they were preyed on and defrauded by a host of petty swindlers. The exploitation that immigrants endured has been written into the records of Federal and State investigations. When pressed by the expense of illness, death, or other calamity, money could be borrowed only from the loan shark at ruinous rates of interest. Workmen were induced, often by false representations, to assign their future wages, many employers made it a rule to discharge any one

who made such an assignment, and thus the workman found himself at the mercy of an assignee who had power over both his livelihood and his job. The law in its actual application to his life was apt to impress the wage earner as an enemy and oppressor and not as a friend and protector.

The first definite pronouncement of the difficulties within the field of justice came in 1906 when Roscoe Pound addressed the American Bar Association on "The causes of popular dissatisfaction with the administration of justice." Slowly, gradually, but in increasing measure the American people were aroused. Legislative committees, constitutional conventions, and bar associations became active. During the past 15 years we have been busily devising ways and means for reforming the law and reorganizing the machinery of justice so that the needs of the community might be better served. We have by no means accomplished all that must sooner or later be accomplished, perhaps the greater part of the road yet remains to be traveled, but we have at last come to a realization of our problem and of the factors that have produced it. No quick final solution was possible, the matter was too complicated to be settled by any easy formula or panacea, experiments had to be made, but the record of events since 1910 proves that an earnest and a brave beginning has been made.

The first workmen's compensation act was passed in 1911. The Massachusetts law requiring the weekly payment of wages was made the most effective statute of its kind when in 1912 its enforcement was intrusted to the State labor commissioner. The first experiments with small claims courts and conciliation were inaugurated in Cleveland and in Kansas City, Kans., in 1913. In the same year the first public defender in the United States was established under the new charter of Los Angeles County. Prior to 1910 there were fewer than 10 legal aid organizations in the whole country; in 1910 the first municipal legal aid bureau was created in Kansas City, Mo., and since that time the growth of legal aid offices, both public and private, has proceeded apace.

The remaining chapters in this article trace the rise and growth of these new agencies, state the results they have already obtained, and attempt to appraise them as far as our present experience enables us to form conclusions. First will be considered the small claims courts which have been signally successful in caring for the cases involving \$50 or less without delay, without excessive court costs, and without the necessity for attorneys. Then comes the allied subject of conciliation, which is still in an experimental stage in America but which has a long and enviable record of achievement in Norway and Denmark. Next will be taken up certain aspects of the workmen's compensation acts as administered by industrial accident commissions, and following that the legal assistance afforded to poor persons, especially in the collection of wages, by the labor commissioners in the several States.

These agencies—small claims courts, conciliation, industrial accident commissions, labor commissioners—all represent efforts to deal with certain limited types or classes of cases by special means adapted to the particular cases within their jurisdiction. Beyond them lies the whole area of legal litigation as to which no short cuts of procedural or administrative reform have been devised, where

the need for the attorney's service remains as great as it has ever been, and where the only solution seems to be afforded by the further development and expansion of our legal aid organizations. Because for the final solution of our existing difficulties we must rely on them so heavily, and because to date they have not secured the public attention and support to which their merits entitle them, the final chapters of this article will be devoted to the story of how these organizations came into being, of the nature and manner of their work, and of the unique service that they now render to more than 125,000 persons every year.

CHAPTER VII.—SMALL CLAIMS COURTS

The effort to make our courts more serviceable to the modern community has met with striking success in the direction of devising a simplified form of procedure for the smaller cases. The courts which utilize this quick and inexpensive procedure are commonly called small claims courts; their jurisdiction differs in different States; the average jurisdiction is over matters involving \$50 or less and this includes most claims for wages, debts (such as grocery bills), disputes about rent, board and lodging, detention of property under claim of lien, damage to personal property—in short, a very large number of the cases in which wage earners are likely to become involved. The importance of these new courts, from our point of view, can hardly be exaggerated. It is of prime importance that their true nature and function be understood, and to that end it is essential to distinguish them from another new agency which is known as conciliation.

Small claims courts and conciliation are distinct things. There is much confusion on this point and much reason for the confusion, but no intelligent grasp of the developments in these two separate fields is possible unless at the outset it can be made clear that small claims courts on the one hand and conciliation on the other are fundamentally different. The difference is one of kind and not of degree.

From any analytical point of view small claims courts and conciliation tribunals have little in common; in most essential features they are opposite. Yet the two terms are often used as if they were interchangeable. We are confronted literally with a case of mistaken identity. This is because the establishment of the first small claims court and the modern revival of the idea of conciliation occurred at the same time. By a freak of coincidence the official history of both begins on precisely the same day in the same year. These twin ideas, as much unlike each other as twins commonly are, were brought into being by the same underlying cause—the absolute necessity of doing something to make justice more accessible to poor persons. Both aimed, therefore, at the same goal, but they contemplated attaining that goal in different ways and through different machinery.

The first small claims court was established in Cleveland on March 15, 1913. By the irony of fate it was called the "conciliation" branch of the municipal court, which, as the chief justice of that court has pointed out, is simply a misnomer. On March 15,

1913, the Kansas Legislature, acting entirely independently of this Cleveland experiment, passed a law creating "small debtors' courts," which were, in all important respects save one, nothing more nor less than conciliation tribunals.

These twists of nomenclature were enough to account for the original confusion as to these new agencies, but the continuing confusion that pervades the discussion and the literature on these subjects arises from the ambiguous use of the word "conciliation."

Conciliation is a method of settling disputes, just as litigation is another method and arbitration still another. But the term is also used to denote conciliation tribunals; that is, to denote the institution which employs the method of conciliation. When we speak of conciliation in North Dakota we mean the conciliation tribunals of that State.

What, then, are these small claims courts and conciliation tribunals in relation to the administration of justice as a whole and in relation to each other?

First. A small claims court is a court and a conciliation tribunal is not a court. In upholding the constitutionality of the North Dakota conciliation act the State supreme court says: "A conciliation board such as is provided for is not a court; it is a tribunal, a board, a table of peace where those who have certain kinds of controversies are invited to sit; this tribunal possesses none of the attributes of a court."

Second. A small claims court, like any other court, has power to render a decision and to enter a judgment which is as binding and as enforceable as the judgment of any other court in the land. A conciliation tribunal has no power to make a binding decision; the only judgment it can enter is one to which both parties voluntarily consent.

Third. A small claims court has compulsory jurisdiction over the defendant; its writ or summons is a legal process and the penalty for disobeying it is a default. A conciliation tribunal has no power to compel the attendance of the defendant; it invites him to come and tell his story, but he may defy the invitation with absolute impunity.

Finally, the small claims court is a court of law. Cases in a small claims court are heard by a judge and his decision is based on the rules of substantive law. Conciliation tribunals are commonly presided over by laymen and the judgment, if any, need bear no relation whatsoever to the rules of law. This must be made clear. If A sues B for a grocery bill and the judge of the small claims court after hearing the evidence decides that the amount due is \$25 the only proper judgment he can render is one for \$25. In the conciliation tribunal, if the conciliator believes the amount due is \$25 but A and B agree it is \$35 or \$15 the only judgment that can be entered will be for \$35 or \$15 as the parties have agreed.

These are the fundamental attributes of, and the fundamental differences between, small claims courts and conciliation tribunals. There are other features, less important and less absolute, pertaining to these agencies that need to be mentioned. As a small claims court is a court of law its hearings, in accordance with constitutional requirement, are open and public. A conciliation tribunal's hearing

is commonly held in secret. Testimony offered before a small claims court may be used, in accordance with the rules of evidence, at a retrial or subsequent hearing. A conciliation tribunal is like a confessional; what is there said goes no further. Lawyers are generally barred from conciliation hearings; the most recent and best small claims courts do not prohibit attorneys, although in fact they seldom appear.

In both small claims courts and conciliation tribunals the procedure is highly informal, rules of pleading, trial procedure, and evidence are largely dispensed with. The parties tell their stories in their own words and are questioned directly by the judge or the conciliator. The outward appearance of a small claims court hearing and of a conciliation tribunal hearing is thus much the same. A small claims court on occasion does approach so closely to the conciliation tribunal as to be identical with it not merely in procedure but in function. A conciliation tribunal can never become a small claims court but a small claims court can and does metamorphose itself into a conciliation tribunal by the simple expedient of invoking the method of conciliation. For example, A and B appear before the small claims court judge. B says, "A, you claim \$30. I owe you only \$27, which I will pay now." A says, "I won't take it." The judge says to A, "Assuming for the moment that you are right, \$27 in the hand is sometimes worth more than a \$30 judgment," and he explains why. A says, "Judge, that sounds like common sense to me. I'll take the \$27." B then pays it. The judge enters "Judgment for A in the sum of \$27 and judgment satisfied." While the method of conciliation may be utilized more readily and more commonly in the small claims court its use is not peculiar to that court. All courts have from time immemorial invoked conciliation when it seemed appropriate. What trial lawyer has not seen instances in which a judge (often just before the case goes to the jury) has called counsel into his chamber and said, "Before we go any further I want to suggest that you see if your clients might come together along the following lines." He does this because it promotes justice and because it often succeeds.

When the small claims court judge attempts conciliation his court is, for the moment, functionally identical with a conciliation tribunal, but underneath it all the fundamental difference remains unchanged. If conciliation fails the conciliation tribunal is done, its power is exhausted. The small claims court judge, however, is only beginning. The preliminary step of conciliation having failed, he proceeds to hear the evidence, to decide the issue, and to enter his judgment.

From this background we can now pass on to the little known and rather surprising narrative of what has actually taken place, what small claims courts have already been established, what their experience thus far has been, and what their future is likely to be.

Small claims courts are being established with great rapidity. Though the idea is only 12 years old it has taken root in various cities and throughout a number of States, from Massachusetts in the East to California in the West. This development is a national, not a local, phenomenon and its momentum has by no means subsided.

The historical record may be condensed into two paragraphs. The Cleveland small claims court was established in 1913 under rules of the municipal court. In 1915 the Oregon Legislature provided by statute for the small claims department of the District Court for Multnomah County. (Portland) and in 1917 extended the plan to all counties. The Chicago Municipal Court by rules created a special division for small causes in 1916. In 1920 the Philadelphia Municipal Court by rule organized a special department including small claims, and Spokane inaugurated its small claims court.

A great forward step was taken when Massachusetts in 1921 established a state-wide system of small claims courts by requiring the judge of every lower court throughout the State to establish a special procedure and special sessions for the hearing of all small claims, not merely contract actions, but tort actions (other than slander and libel) as well, where the amount claimed was \$35 or less. In 1921 California and South Dakota by statute erected state-wide systems of small-claims courts, and Minnesota, having liked the Minneapolis experiment, extended the plan to St. Paul and Stillwater. Iowa passed an act in 1923 providing for conciliation and also giving all the lower-court judges power to regulate the procedure in small claims. Also in 1923 Idaho and Nevada created their state-wide systems of small-claims courts.

Thus, throughout seven States and in four great cities in other States the small-claims court is an established fact.

Since Massachusetts was the first State to pass a state-wide act of general application to all small legal actions, thereby making the small-claims courts an integral part of its administration of justice, and since the Massachusetts law and procedure are in many respects the best thus far devised, the situation in that State affords a good practical illustration of what the idea is, how it works, and what it accomplishes.

Massachusetts has both an industrial and an agricultural population. It has great cities and small country towns. Its citizenship consists of the descendants of the original Anglo-Saxon stock and a great number of immigrants of diverse races. In short, here are presented all those problems that make the administration of justice in our country peculiarly difficult. The courts of the State are above the average. In the lower courts the fees and costs were comparatively low, and a great deal had been done to eliminate delays. Yet the poor man with a small case in many instances found the courts practically closed to him, because the fees for entry and service of process were more than he could afford and because of the expense of employing counsel to pilot his little case through the intricacies of pleadings, evidence, and trial procedure. It is probable that the problem existed in less acute form in Massachusetts than in most other States, but a specially appointed judicature commission, after traveling throughout the State, conferring with judges, and conducting hearings, stated in its first report:

The substantial point which the commission believes to be established by all this evidence is that, as a practical matter in many cases involving small amounts, the delay incident to formal court procedure, the expense involved in the service of process and in the present entry fee, and the expense of an

attorney result in a failure of justice simply because the parties have not the money to pay what is required in the litigation of these matters.

This is not a healthy state of affairs in any community. That the failure of justice in this way may be relatively less in Massachusetts than that in some other places is no reason why efforts should not be made to improve matters in Massachusetts. Is it fair that a man who has a small claim for \$5 or \$10 or thereabouts should be under the necessity of paying out as much or more than the amount of his claim in order to present the matter to the court?

Can not Massachusetts devise some practical method of handling these small claims promptly, simply, informally, and without unnecessary existing expenses, in the interests of justice?

The commission recommended legislation, the essential features of which are:

The justices (of the lower courts) shall make uniform rules providing for a simple, informal, and inexpensive procedure for the determination, according to the rules of substantive law, of claims in the nature of contract or tort other than slander and libel in which the plaintiff does not claim as debt or damages more than \$35. Such procedure shall not be exclusive, but shall be alternative to the formal procedure for causes begun by writ. Such procedure shall include the beginning of actions without entry fee or writ or requirement, except by special order of court, of other pleading than a statement to a clerk or an assistant clerk of the court, who shall reduce the same to concise written form in a docket kept for the purpose. Such procedure shall include notice by mail instead of the mode of legal service heretofore required, and shall further include provisions for early hearing of actions thus begun. Such procedure may include the modification of any or all existing rules of pleading and practice, and a stay of the entry of judgment or of the issue of execution. The rules for such procedure may provide for the elimination of any or all fees and costs now fixed by law, and that the imposition of costs in causes under such procedure shall be in the discretion of the court. In causes begun under such procedure the court may on application for cause shown issue writs of attachment of property or person as in causes begun by writ.

The legislature amended the bill so as to require a one-dollar entry fee and then enacted it in 1920, postponing its effective date to 1921 so that the judges might have time to formulate their rules. A copy of the law and a copy of the rules will be found in appendixes to this bulletin.

A small-claims court is doomed to failure unless it can speedily bring its cases to a final determination. It was at first feared that the Minneapolis court would be wrecked by multitudinous appeals. The chief difficulty is the constitutional guaranty of right to trial by jury, which Massachusetts, in common with most States, extends to all suitors in actions at law. This right can not be cut off and therefore the small claims act provides as follows: A plaintiff may sue in the regular way but if he elects to use the small-claims procedure (and plaintiffs are substantially unanimous in their preference) then he has waived his jury claim. The defendant may at once (not after the decision) remove the case to the superior court for jury trial, but if he does not then he too has waived. There is no appeal. It was debated whether the law should make the removal by the defendant burdensome by requiring extra fees or a bond. The commission decided against any such attempt on the ground that if the small claims court did not command the respect of the litigants it could not in any event be successful. The practical answer is that during 1921, 2,041 cases were entered in the small-claims branch of the Boston Municipal Court and only six defendants exercised their right of removal.

This problem of appeal—which means delay and expense—and the allied problem of the right to jury trial are critical and must

be overcome at the outset. We commend the Massachusetts plan, which is sound law and workable in practice, as the precedent to be followed wherever it is applicable. In Cleveland, the situation is analogous. The small claims court's decision is final on the facts; an appeal on points of law goes directly to the court of appeals, the intermediate appeal to the court of common pleas having been abolished. In California the decision is conclusive as to the plaintiff but the defendant may appeal by giving bond to pay the judgment (if affirmed) and also a special fee of \$15 for the plaintiff's attorney. The system in Idaho, Minnesota, and Oregon is like that of California.

The procedure in all small claims courts is very much the same. Using Massachusetts again as our illustration, if Adams has a grocery bill against Babbitt in Boston he goes to the clerk of the small claims branch. Many matters are there settled or dropped. In 1921, of 2,041 cases filed, 190 or 9 per cent were settled by payments to the clerk aggregating \$2,792.18 so that they never came before the court. If an immediate settlement is not effectuated, the clerk has Adams sign (no oath is required) a simple statement of claim which appears in the docket as follows:

Claim: Defendant owes plaintiff \$27.83 for groceries and household goods sold him between October 16, 1920, and December 28, 1920.

If the statement does not make out a prima facie case it may go at once before a judge, who determines whether the claim shall be received. The general principle that the statement may be informal and need not be the equivalent of a common law declaration is upheld in *Shea v. Robinson* (298 Ill. 181 (1921)).

The entry fee is \$1. Some entry fee is desirable. In San Francisco, where the proceedings are absolutely free, collection and installment houses dun their debtors ad libitum without any expense by having their bills mailed out by the small claims clerk with postage stamps paid for by the county treasury.

The case is set down for hearing within a week or 10 days and the clerk gives the plaintiff a card stating the exact time and place.

Notice then goes to the defendant, not in the usual form of a writ couched in archaic technical language but in the following direct style:

To John T. Babbitt.

Amos X. Adams asks judgment of this court against you for \$27.83 for groceries and household goods sold you between October 16, 1920, and December 28, 1920.

The court will give a hearing upon this claim at (here the court house and room is inserted) at 9 o'clock in the forenoon on Thursday, February 3, 1921.

If you deny the claim, in whole or part, you must, not later than Tuesday, February 1, 1921, state to the clerk, personally or by attorney, orally or in writing, your full and specific defense to such claim, and you must also appear at the hearing. Unless you do both, judgment may be entered against you by default. If your defense is supported by witnesses, account books, receipts or other documents, you should produce them at the hearing. Summonses for witnesses, if requested, will be issued by clerk, without fee.

If you admit the claim, but desire time to pay, you must, not later than Tuesday, February 1, 1921, personally or by attorney, state to the clerk, orally or in writing, that you desire time to pay, and you must also appear at the hearing and show your reasons for desiring time to pay.

This notice is sent by registered mail, return receipt requested. If the postman (who knows most of the persons in his district) can not make delivery, then the court may order other process. In the Boston district in 1921 only 8 notices were returned because acceptance was refused and only 124 were returned because the defendant could not be located. In fact, service by mail works so well that the Cleveland court, which has used it longest, has discarded registered mail and used the ordinary 2-cent mail not merely in small cases but as the regular method of service in all municipal court cases.

Attachments are rarely issued, but they may be used if the court so orders. This seems better than the California rule that "no attachment or garnishment shall issue from the small claims court."

It will be noted that the Massachusetts procedure requires the defendant to file an answer (or tell his defense to the clerk who will file it for him) or be defaulted. The arguments pro and con on this point are evenly balanced. By not requiring any answer, you save the defendant one trip to court and you eliminate one procedural step. On the other hand, unless an answer is required the plaintiff is obliged to attend the court often for the sole purpose of being entitled to a default judgment. Furthermore, the answer gives the plaintiff opportunity to prepare for a defense he had not expected. For these reasons Massachusetts requires an answer; for the contrary reasons the other small claims courts do not. The wiser course can not be determined by theorizing; it will be decided by experience.

On the assigned date (unless there be a default) both parties appear in person, and the judge conducts the hearing by direct conversation with the parties and their witnesses when there are any. The judge keeps the evidence within the bounds of relevancy but he does not bother if heresy creeps into the testimony of a man trying to tell his story in his own words. Much litigation grows out of misunderstanding; when that appears the judge may be able to remove it and here he is using the method of conciliation. More litigation grows out of the defendant's inability to pay and when he finds that he can pay in installments his denial often becomes a candid admission. In any event, the court makes a decision which is entered as a judgment. If the defendant needs time, issuance of execution may be stayed.

The procedure is obviously informal and untechnical. As expressed in rule 7, "Witnesses shall be sworn; but the court shall conduct the hearing in such manner and form, and with such methods of proof, as it deems best suited to discover the facts and to determine the justice of the case."

The justice of the case is determined, it must again be emphasized, not as the arbitrary ruling of an untrammled despot and not as the merciful dispensation of a Haroun-el-Raschid, but according to law. The small claims courts administer justice according to the principles of substantive law.

We have now gone far enough to venture some appraisal of these courts. They are new courts but still courts of law. And though new they do not add to our problem of multiplicity of courts because

they are organized as branches or sessions of existing courts. They represent not new institutions but new equipment for existing institutions.

The small claims courts disregard the established rules of pleading, procedure, and evidence, but they are by law authorized to disregard them. A departure from a religious observance of these rules is no menace. As Hon. Charles E. Hughes has expressed it:

The judicial quality does not reside in form or ceremony, still less in circumlocution and an avoidance of the pith of the matter. The judicial quality of procedure is found in the impartial hearing and the reasoned determination upon ascertained facts, and it may be speedy, summary, and, as our clients would say, businesslike, without losing its character.

"If we must choose between too much procedure and too little," Hon. Elihu Root has remarked, "we had better have too little."

That the small claims court procedure works well is evidenced by their record. The statistics of the Cleveland small-claims court, which has been in successful operation for 12 years, show that in 1913, 2,367 cases were disposed of; in 1916, 5,182 cases were disposed of; in 1922, more than 6,500 cases were disposed of.

The Minneapolis court handled 37,174 cases from August, 1917, to August, 1923. During its first three years the court disposed of 15,862 cases, as follows:

Settled before hearing, 3,092, or 19.5 per cent; settled in court (i. e. conciliated), 1,397, or 8.8 per cent; judgments by default, 3,239, or 20.4 per cent; cases tried, both parties present, 8,134, or 51.3 per cent; cases dismissed, 1,006; judgments for plaintiffs 5,879; judgments for defendants, 1,249; appeals, 117, or 2 per cent of appeals from judgments for plaintiffs.

The Chicago small-claims branch now requires three judges, who dispose of about 30,000 cases a year. During its first year the Philadelphia small-claims department received 2,939 cases, in 1921 the San Francisco court had approximately 2,500 cases, and in the same year the Boston court had 2,041.

In addition to the figures on this point, already cited, we find that in the Minneapolis court out of 37,174 cases during six years there have been but 735 appeals, and in the Cleveland court from 1913 to 1920 there were about 35,000 cases and only 2 appeals. During its first year the San Francisco court had only 3 or 4 appeals out of a volume of about 2,500 cases.

The advantages of the small-claims courts are clear. First and foremost they do justice in a class of cases where justice could not be done by the machinery formerly in existence. Because they secure justice to the humble citizen with his small case they demonstrate the integrity of our institutions and they afford a practical object lesson in real, as distinguished from talky-talk, Americanization. They have relieved congested dockets. It is not infrequent for a small claims court judge to dispose of as many as a hundred cases a day.

How far the jurisdiction of small claims courts may wisely be extended is a matter for experience, not theory, to decide. Chicago started at \$50 in 1915, increased its limit to \$100 in 1916 and to \$200 in 1917. No other court has gone so far. The Oregon courts are limited to money claims not exceeding \$20. Cleveland's jurisdictional limit is \$35, but in 1923 the chief justice of the municipal court said, "We are seriously considering consigning to the (small

claims) court all cases in which the amount involved is \$100 or less." The Massachusetts Legislature set the figure at \$35, the State grange has sought to have this increased to \$75, several of the clerks favor \$100, but Chief Justice Bolster of the Boston Municipal Court says, "While not opposing such a small increase as to \$50, I believe the system has not been tried for a long enough time to determine whether for large claims it would constitute an improvement over the usual procedure." The Minneapolis court's jurisdiction has been increased from \$50 to \$75.

These courts are a success and should continue to be a success, because for the pressing need that exists they provide a perfect answer. They are not a surface panacea; they go to the roots of the difficulty. They are swift in action (10 days is enough for a small claims court to do its work), thereby eliminating delay; they have reduced costs to a minimum by abolishing fictitious costs and by utilizing mail service (the court costs vary from zero in California to 57 cents in Cleveland, 75 cents in Oregon, and \$1.12 in Massachusetts). They are so simple that, aided by the clerk and the judge, the parties can conduct their own cases, thereby making the expense of counsel unnecessary. This system in toto represents a complete, thorough, and sound plan whereby our machinery of justice may be adapted to a special need of the community.

CHAPTER VIII.—CONCILIATION TRIBUNALS

For a completely adequate plan to secure justice in the smaller cases we would not need to look beyond the small claims courts if their extension throughout the United States were possible. Unfortunately that is not the case, because in many parts of the country our court organization is not suited to this purpose. The wide discretion and summary power implicit in the informal small claims procedure require that the court to which it is intrusted be a well-organized, responsible municipal court as in Chicago, Cleveland, Minneapolis, St. Paul, and Philadelphia, and that for adoption on a state-wide basis all the lower courts be of high standard; in Massachusetts, for example, every lower court is a court of record, its decision is final in all civil matters within its jurisdiction, and the judges of the several lower courts have an association that enables them to adopt uniform rules of procedure.

For every city or judicial district in which the small claims court plan could be immediately adopted there are, according to an estimate by the secretary of the American Judicature Society, perhaps ten times as many places where it is inapplicable. As is stated in a report on this subject presented to the conference of bar association delegates in 1924, "There are States in which there are no courts between the justice of the peace and the circuit courts, except probate courts and special courts in the larger towns and cities. In such States there are many counties on which the benefits of small claims procedure can not be conferred but which must be reached through court reorganization or by some form of conciliation if any solution is to be found." Because conciliation may afford the most practicable immediate solution in a substantial part of the country it merits careful examination.

In speaking of conciliation it must be borne in mind that we are not dealing with conciliation and mediation as a means of settling collective disputes between capital and labor; in this article we are concerned only with conciliation as a method for settling disputes between individuals, claims for wages, debts, rent, damage to property, breach of contract, and especially with conciliation in the smaller cases within the jurisdiction of the conciliation tribunals.

There are few conciliation tribunals in the United States even if we use the term broadly. In 1913 the Kansas Legislature established "small debtors'" courts in Topeka, Leavenworth, and Kansas City. In 1917 the Minneapolis "conciliation" court was created; in the main, this is a small claims court, but a part of its jurisdiction is purely that of a conciliation tribunal. The board of justices of the municipal court of the city of New York in 1917 adopted rules for the disposition of controversies through conciliation. In 1921 North Dakota passed a statute making definite provision for conciliation tribunals and in 1923 Iowa followed suit.

These developments are so recent that we have little practical experience to serve as a guide. In Minneapolis the court's power to sit as a conciliation tribunal (as distinguished from its small claims procedure) has been seldom invoked. The New York Municipal Court's rules for conciliation lay in abeyance from 1917 to 1925, when Justices Lauer and Davies revived the idea, the results of which it is, of course, too early to ascertain. North Dakota, therefore, affords the only American experiment from which we can hope to gain any tangible idea of the nature of conciliation tribunals and their results.

In North Dakota since 1895 there had been on the books a law providing for the election of four conciliators in every incorporated town and village. Resort to conciliation could be had only if a case was pending in court and if both parties consented to have it transferred to the conciliator. This plan was wholly ineffective, the law was a dead letter, and it is doubtful if the conciliators were even elected.

To remedy these defects the 1921 statute provides for the appointment of conciliators by district court judges, and added a compulsory feature to the effect that in claims of \$200 or less no one can sue in a court until he has first (except in certain exempted classes of cases, as suits on promissory notes) attempted conciliation. The procedure is as follows: A would-be suitor goes to the conciliator and states his claim. The conciliator notifies the adverse party of the time and place of hearing by mail, telephone, or word of mouth. If the defendant appears and the parties are enabled to reach an agreement, the terms of the agreement are written, signed by the parties, and may then be entered in the district court as a judgment. If the defendant refuses to appear or if the parties fail to agree, then the conciliator can do nothing; he issues a certificate of "non-conciliation," which leaves the plaintiff free to pursue his action in the regular way in the courts.

The attorney general of North Dakota has stated "the results of conciliation have not justified the hopes of the authors of the measure." Investigation reveals that the plan has encountered numerous obstacles, but whether this is because the law is defectively

drawn or because of other factors it is too early to know. Our brief contemporary experience can not be taken as conclusive.

The idea underlying conciliation makes a great and a universal appeal. It will not down. Like hope, it "springs eternal in the human breast." As Charles A. Boston has expressed it, "Conciliation is one of the oldest forms of judicial procedure, which reappears sporadically from time to time." The conduct of cases in the first American courts during the colonial era is suggestive of conciliation procedure. In the period from 1846 to 1851 we find provisions for conciliation being inserted in the new constitutions of New York, Wisconsin, California, Michigan, Ohio, and Indiana. The high hopes of these framers were disappointed, but again the idea reappears, as has been noted, in 1913, in 1917, in 1921, and in 1923. In 1921, when the conciliation act was passed in North Dakota, one branch of the legislature was conservative and the other in control of the Non-Partisan League, but both branches agreed on this measure. The great Lord Chancellor Brougham, who labored so valiantly to improve the position of the poor in England during the early nineteenth century, had great faith in conciliation. Mr. Justice Parry, of the English county courts, and author of "The Law and the Poor," is to-day an earnest advocate of informal conciliation procedure as the best method for the settlement of small causes. Still more important is the indisputable fact that for more than a century conciliation tribunals have been markedly successful in both Norway and Denmark. N  kolay Grevstad in an article on the Norwegian system states: "It is regarded as one of the cornerstones of the national system of justice and it is not an exaggeration to say that any attempt to abolish it would provoke a revolution."

While the history of conciliation in America has thus far been disappointing it would be unsound to dismiss it altogether from our plans for improving the machinery of justice. The sensible course is to maintain an open mind, to study more closely the procedure that has been developed in Norway and Denmark, to determine the reasons for its great success, and then in the light of more accurate knowledge to try to secure its benefits for ourselves by including some adequate provision for conciliation in our American laws.

CHAPTER IX.—INDUSTRIAL ACCIDENT COMMISSIONS

So much has been published on workmen's compensation legislation that in this article we may limit ourselves to those aspects of the subject which throw new light upon, or otherwise are peculiarly pertinent to, our immediate problem of how the machinery of justice can be adapted or supplemented in order that it may be attuned more closely to the needs of the present day.

The superiority of the law affording compensation for accidents over the prior law which required a suit for damages based on the employer's negligence is so great and is so universally admitted that no extended comment on this aspect of the matter is necessary. But if the legislation which introduced the compensation principle had stopped there very little gain would have resulted, and in fact the legislatures went much further. They attacked the defects in the machinery of justice which we have summarized under the three

headings of delays, court costs and fees, and the necessary expense involved in the employment of counsel. The legislatures practically abolished all costs and fees, they designed a procedure that would be summary in character, they wished to eliminate the necessity for counsel altogether, and accordingly they intrusted the administration of the workmen's compensation acts not to the courts but to a new type of quasi-judicial agency called industrial accident boards or commissions.

In Chapter IV, dealing with court costs and fees, it is stated that expenses of this sort ought never to be permitted to constitute an obstacle to justice, because it is so easily within the power of the legislature to reduce them to a minimum or abolish them in toto. The compensation acts did so, and after a decade of experience it is clear that great good and no harm has resulted. The Connecticut compensation act carried the principle one step farther and provided that if a case was appealed from the commission no costs should be charged in the superior court. Likewise the problem of stenographic expense has been met; most of the commissions employ and pay their own reporter to take the record of the proceedings. Iowa, in 1924, by statute expressly authorized this, and as a result this expense of litigation is lifted from the shoulders of the injured workman.

In adjusting claims promptly the commissions have done equally well. A study of 7,330 claims in Wisconsin during the first half of the year 1922 revealed that in 77 per cent of the cases compensation payments began within 5 weeks of the injury and in 96 per cent of the cases within 13 weeks. Bulletin No. 301 of the United States Bureau of Labor Statistics (p. 42) shows that from 75 to 95 per cent of all compensable injury claims are adjudicated without formal hearing; in other words, they are adjusted with extreme rapidity. The late Mr. E. H. Downey, a recognized authority on compensation matters, in his last book, published in 1924, puts it even higher and says: "At least 95 per cent of all compensation claims are settled by direct agreement between the parties without reference to any tribunal." The report of the Pennsylvania Department of Labor and Industry, summarized in the Monthly Labor Review of the United States Bureau of Labor Statistics for April, 1922, makes these figures more dramatic by saying: "Into more than 320,000 stricken homes, within an average of 19 days after the accident, has gone a certificate, signed by the chairman of the board, that the injured man's voluntary agreement with his employer has been found properly executed and that compensation will be paid under it."

In contested cases, where some kind of hearing and adjudication is necessary, the record for prompt dispatch of business is maintained. The 1917 report of the California Industrial Accident Commission shows that 86.5 per cent of its disputed claims were decided within 62 days. This period of 2 months may be compared with the 2 years and 5 months average time required to complete court action in common law personal injury suits as reported by the actuary of the Ohio commission.

Nor does this speed seem to have prejudiced the accuracy of the commission's work. The California commission reports in 1921: "Efforts to review the awards of the commission were made in but

0.023 per cent of the cases in which awards were made; in but 6 of the 50 cases decided by the appellate courts was the award of the commission disturbed."

The compensation acts commonly said "proceedings shall be summary," but the credit for the excellent record that has been made does not belong to this legislative fiat. In dealing with the factor of delay we have said that delays could be eliminated only if and when the courts were given power to regulate their own procedure and to control the formal routine of their business through rules which are flexible and which can be altered to meet changing circumstances. Precisely this power was given the industrial accident commissions, and their intelligent use of that power is responsible for the elimination of delay in compensation cases.

In the 95 per cent of the accident claims that are automatically adjusted by agreements supervised and approved by the commissions the necessity for employing counsel has been completely obviated. As to this vast number of cases we have closely approximated the ideal of our law. The injured wage earner received the equal protection of the laws without delay, without the payment of court costs and fees, and without the expense of employing lawyers.

As to contested cases, the commissions have done much to assist the injured man to prepare his case through their staffs of inspectors and through the provision of impartial medical experts. But that is not enough. In any real contest the injured employee needs to be represented by counsel as much as does a litigant in any other case if his rights are to be fully protected. This lesson has been learned by generations of experience with litigated matters, and it is hard to see why compensation cases should prove one exception to the rule. For the commissions themselves to act as counsel for the injured man is highly dangerous. It is axiomatic that no man can be judge of his own cause. For the same reason it is difficult for a commissioner to judge a cause in which he is the advocate. Either he will be a partial judge or his advocacy will lack that zealous fidelity to his client's cause which is the very essence of the attorney's duty. As the American Bar Association's Canon of Ethics, No. 15, states it, "The lawyer owes entire devotion to the interests of his client, warm zeal in the maintenance and defense of his rights, and the exertion of his utmost learning and ability, to the end that nothing be taken or be withheld from him save by the rules of law legally applied." At a meeting of the International Association of Industrial Accident Boards and Commissions the chairman of the Pennsylvania commission pointed this out forcibly: "If your boards take up the side of the workman and prepare the workman's cases, and let the workman present the case, through his own lips, that you prepared for him, and you decide your cases, you are soon going to cripple your own usefulness through lack of confidence by the community."

The real situation is obscured by describing these commissions as "quasi-judicial" bodies. Their task as to the cases which are settled by agreement is supervisory, it is administrative in its nature. As to disputed cases, however, their task is not quasi-judicial but is primarily and essentially a pure judicial function. Their decision

on the facts is final, their decision on the law is generally final because relatively few cases are appealed to the courts.

As precedents accumulate, as the pressure of work increases, the commissions in order to perform their judicial functions properly will have less time and less opportunity to act, or attempt to act, as counsel for the injured workmen. In our opinion, as time goes on the need for an attorney to represent the workmen in disputed cases will become more and more apparent. A solution may be afforded by the legal aid organizations which, if they are properly developed, can supply the services of attorneys to injured workmen without any expense or for such nominal charges as the commissions themselves may fix. The first step in this direction has been taken through joint action by the International Association of Industrial Accident Boards and Commissions and the National Association of Legal Aid Organizations, each association having appointed a special committee to consider how far such a cooperative arrangement may now be feasible and workable or may be made to be.

In Pennsylvania the commission has attached to its staff salaried attorneys whose services are available to claimants under the compensation act. This might seem a better solution than that suggested in the preceding paragraph; certainly the Pennsylvania provision is far better than no provision, but in the long run we are of opinion that the legal aid organizations may afford a more permanent solution, and for two reasons. In the first place, the history of the development of legal institutions indicates that the attorney, in order to fulfill his obligation to his client, should be independent of and not a paid retainer of the tribunal in which he pleads his cases. An analogy makes this plainer. If a citizen, when haled into court, could be represented only by an attorney selected by the judge, paid by the judge, and subject to discharge by the judge, he would be resentful. And the community at large would regard the arrangement as foreign to our conception of safeguarding the right of the individual so that he can neither be condemned for crime nor deprived of property until after a full and impartial trial in open court. Secondly, and more important, the problem of the expense of counsel is not limited to compensation cases but is a general problem for which we want a general rather than a piecemeal solution. Rather than attaching salaried attorneys to every court or tribunal in which indigent persons have cases it would seem less expensive, more efficient, and more in harmony with the spirit of our institutions to have one central law office to which the less well-to-do persons could go and there obtain whatever assistance from lawyers they may need. Such central offices are what the legal aid organizations ought to become in the natural course of their development and what some of them have already become with their staffs of well-trained attorneys, qualified to practice before all courts and commissions, and possessing expert knowledge as to those types of cases in which wage earners are commonly involved. As a concrete illustration, we believe the Massachusetts Industrial Accident Commission would bear out the statement that during the last 10 years the Boston Legal Aid Society has had attached to its staff an attorney thoroughly qualified to represent injured workmen in disputed cases under the compensation act.

Because the compensation acts have on the whole been so successful in securing justice to the wage-earning class the question arises as to how far the same plan might be developed into a more general solution for our existing difficulty. It is clear that the employees on interstate railroads, seamen, longshoremen, and all others who fall under the shadow of the Jensen decision should be brought within the protection of compensation acts. This is merely bringing other classes of employers within the scope of the laws; it does not involve any extension of the compensation principle and of the administrative method into new fields.

Suggestions have been made for its extension to automobile accidents and injuries to passengers on street cars and railroads. Immediately difficulties of the first magnitude appear. A compensation plan must first fix a schedule for specific indemnities. The loss of a finger to the tender of automatic looms is not comparable to the loss of a finger to a violinist, yet both may be injured in the same train wreck. For nonpermanent disabilities the compensation plan is to pay two-thirds or three-fourths of the average weekly earnings. As to employees, earnings can be determined without undue difficulty, generally from the pay rolls, but any determination of the average income of the public which rides on common carriers would be as complex as the administration of the Federal income tax law. There would necessarily be a vast amount of litigation and in that litigation the claimants would unquestionably need the services of attorneys.

In short, there are special fields of the law and certain types of cases where special machinery may be utilized to eliminate or obviate those factors which cripple the effectiveness of the administration of justice from the point of view of the wage earner. The small claims court is one example. The industrial accident commission is another. In the next chapter the assistance given by labor officials in the collection of wages will be found to be a third. But beyond the little cases, compensation claims, and wage collections there is an infinite variety of litigation involving rights and duties and relationships in which wage earners are deeply concerned, and so far as we can see, some other solution, something comparable to the work of the legal aid organizations, will have to be devised and rapidly developed if the law is to be actively effective and if justice is to be done.

CHAPTER X.—ADMINISTRATIVE OFFICIALS

Just as the law and the courts have found it difficult to adapt their machinery to modern conditions, so government in the modern State has found itself confronted with new problems, with complicated questions of social control, and it has accordingly been forced to extend its sphere of action in many directions and into new fields, which until recently have been considered of no direct concern to governmental officials. The so-called blue sky laws, regulating the sales of securities, that have been enacted in so many States afford as good an illustration as is needed to indicate this enlarging sphere of governmental control over private transactions.

We have long had administrative officials such as county commissioners and licensing boards; the Pension Office and the Bureau of

Immigration have long been familiar departments of the Government, and even the public utility commissions, though newer, have been in existence for nearly a generation. None of these bodies, however important their public work undoubtedly is, have had any substantial direct influence on the legal position of the individual wage earner or person of small means so far as his individual legal problems are concerned.

But the most recent developments of governmental action through administrative officials do come into contact with the legal problems of individual citizens and for that reason they are of some concern to us in this article. The various types of administrative officials can hardly be embraced within any simple definition. For our purposes we may say that they fall into two groups.

The first group consists of officials and boards which, like the industrial accident commissions, have both administrative and judicial functions to perform. They are commonly organized under the executive department of the Government, but as they have power to hear and determine cases within their jurisdiction they do, in reality, stand midway between the executive department and the judicial department, partaking of the nature of both.

The blue sky law commissions are of this group. They have jurisdiction to hear complaints about stocks and bonds that are sold, about the salesmen who sell them, to determine the facts, and to cancel the permission to sell the securities in question or to revoke the salesman's license. In other words, if a wage earner has been defrauded in a stock transaction to-day he goes to the administrative official in charge of the blue sky law, whereas 10 years ago his only redress would have been to employ an attorney to bring a suit for him in the courts. The blue sky commission will investigate the complaint through its staff of auditors and inspectors and will summon in the suspected parties, all at public expense. Thus the problem of expense which has hitherto baffled the man of limited means is eliminated because the State has assumed it. The State is interested in running down fraudulent promoters primarily in order to safeguard the public in general but the effect, nevertheless, is often to secure justice for an individual complainant in an individual case. We must recognize therefore that through such administrative officials we may discover one more method whereby the laws may be made actively effective and whereby justice can be secured to the individual.

Sales of stock to individuals of limited financial resources are generally on the installment plan. By an act of the legislature in 1924 Massachusetts prohibited the sale of any securities under installment contracts unless the contract had first been submitted to the blue sky commission and its form approved. Formerly if a wage earner entered into an oppressive installment contract and failed to meet a payment his only chance for redress would be to engage counsel to defend him if suit were brought to enforce the contract or to sue in equity to prevent all the payments made under the contract from being forfeited. If the wage earner could not afford counsel, his legal rights would be completely lost. To-day the same man would appeal to the proper administrative official, it would doubtless appear that the hard bargain was in a form never approved

as required by law, and the administrative official would be in a position to effect summary redress. The guilty salesman would very likely be given the option of having his license revoked or of making full restitution. Thus justice would be secured to the wage earner without delay, without the payment of a cent for costs, and without the necessity of employing counsel.

In this same group should be included those administrative officials in 20 States who are attached to the banking departments, have jurisdiction over small loans, and are sometimes called supervisors of small loan agencies. We include them in this group because they have not only executive functions but also power to hear and determine cases within their jurisdiction. Their power rests on the fact that they grant the licenses required by law of all companies engaged in the business of making loans of \$300 or less, and that they may revoke those licenses. For cause shown they may put a loan company out of business. If a borrower has been charged more than the legal rate of interest, he need not engage a lawyer to bring a suit in the courts. Instead he walks to the statehouse, complains to the commissioner, who has wide powers of investigation and power to summon the lender to appear with all his books and answer the charge. The commissioner hears the evidence, and, while he has no power to enter a legal judgment for the amount of the overcharge, he has power to revoke the lender's license. In practical effect he can always secure the refund of the overcharge because the lender would prefer to do that than lose his license. Thus the borrower secures justice through a summary proceeding which he can institute without the prepayment of costs and for which he ordinarily need retain no attorney.

The second group of administrative officials which is of interest to us is composed of officers whose function is exclusively, or almost exclusively, executive and not judicial in its nature, who have power to investigate, but who must institute court proceedings in order to secure obedience to their orders. Such officers, in the performance of their duties, render services to complainants which are, in effect, legal aid because they are the same services that a private attorney renders his client in a similar situation. Insurance commissioners, for example, give a substantial amount of free legal advice to persons who hold small weekly payment policies of life insurance, generally called industrial insurance. They are willing to take up with the companies questions of overcharge of premiums, failure to credit dividends, reinstatement of lapsed policies, and the rights of beneficiaries when the insured has died. If the insurance company refuses to comply with the insurance commissioner's request the insured or the beneficiary must go to court to vindicate his rights; practically, however, the commissioner's suggestion is apt to be acceded to and litigation is unnecessary. In such cases the State has, in effect, provided to the insured an official who has acted as his attorney, who has advised him as to his rights, and who has negotiated a fair settlement with the company, and the expense of such services is borne by the State.

While stock purchases, small loans, and insurance policies are all matters in which wage earners are interested, the administrative arm has been extended into a field of far more vital concern and that is the collection of wages. A large proportion of all the cases in

which laborers need the help of an efficient administration of justice consists of claims for unpaid wages. There is no way to know for a certainty the extent to which wages are not paid promptly in this country; the fact that most established companies do meet their pay rolls with absolute regularity blinds public opinion to the fact that too many wage earners are able to secure their pay only after litigation or the threat of litigation. Persons who have examined the available data have expressed the belief that if all the claims for unpaid wages could be totaled the aggregate would run into astonishingly high figures.

Whether such claims are numbered by tens or hundreds of thousands we must bear in mind that each single claim is a matter of the utmost consequence to the individual concerned. The wage earner lives from week to week, his dependency on his Saturday pay envelope is so absolute that the law has given him the status of a preferred creditor (as for instance in bankruptcy and under the mechanic's lien statutes). One may go further. The laborer's right to be rewarded for his toil is almost a sacred right; the employer's obligation to pay is enjoined not only by the law but by religion. No better statement exists than that in the twenty-fourth chapter of Deuteronomy:

Thou shalt not oppress an hired servant that is poor and needy, whether he be of thy brethren, or of thy strangers that are in thy land within thy gates.

At his day thou shalt give him his hire, neither shall the sun go down upon it; for he is poor, and setteth his heart upon it; lest he cry against thee unto the Lord, and it be sin unto thee.

In their efforts to secure their pay, the wage earners have found our legal machinery entirely inadequate. Redress through civil litigation was too slow, too cumbersome, and expensive out of all proportion to the amounts involved. To bring civil proceedings, they would be obliged to secure the services of attorneys, and we can gain some idea of the magnitude of the whole problem because we know that each year the legal aid organizations of the United States collect for their clients over half a million dollars in amounts averaging about \$15 per case and most of the cases are wage claims.

The inadequacy of ordinary litigation in the courts became so apparent that in State after State the legislature took cognizance of the situation and endeavored to devise new remedies. If we can find some plan that will be as effective in securing justice to unpaid wage earners as the workmen's compensation plan is effective in securing justice to injured workmen, we shall be able to solve a large section of the whole problem to which this bulletin is addressed. For that reason it is important to analyze the various experiments that are being tried in the various States to insure the prompt payment of wages.

The first legislative effort at a remedy was made in Massachusetts, when in 1879 the theory of "freedom of contract" was abandoned and the law required weekly payment of wages. In 1886 corporations engaged in certain industries were by statute made liable to criminal proceedings and to fines for nonpayment of wages. In 1895 the provisions were extended to individual employers. Since that time down to the present day the law has been extended in its operation until it embraces every employer in all important lines of business.

In other States other types of legislation have been tried, but in each case the effort has been to secure a remedy for the unpaid workman which would avoid the delay, the expense, and the problem of securing the services of an attorney.

One group of States has endeavored to compel payment of wages by imposing a penalty for nonpayment, as by making the wages run till paid, leaving, however, the unpaid wage earner to collect the penalty through an ordinary suit in the ordinary courts.

Kansas (Acts of 1919, ch. 221, amending G. S. 1915, sec. 5875).—Wages run until paid.

Louisiana (Acts of 1920, ch. 150, sec. 2).—Wages run until paid.

Arkansas (Crawford & Moses Digest (1921), sec. 7125).—Wages run until paid or tendered.

California (see *More v. Indian Spring Co.*, 37 Calif. App. 370 (1918)).—Period not exceeding 30 days added to the unpaid wages.

Idaho (2 C. S. (1919), sec. 7381).—Same penalty as for California.

South Carolina (Acts of 1919, No. 20, amending Vol. I, Code of Laws, sec. 3812).—Same penalty as for California.

Montana (1 R. C. Mont., 1921, secs. 3085, 3086).—Penalty of 5 per cent of wages due.

Michigan (2 C. L. 1915, sec. 5585).—Penalty 10 per cent for each day's delay.

Indiana (see *State v. Indiana*, 1923, 139 N. E. 282).

Another group of States has endeavored to aid the workman by providing that if the laborer won, his lawyer's fee should be paid by the defendant.

Minnesota (Laws of 1919, ch. 175, sec. 5).—Attorney's fee of \$5; (1 Rev. Code (1921), sec. 3089) reasonable attorney fee.

Idaho (2 C. S. (1919), sec. 7380).—Reasonable attorney fee.

These laws are not altogether sufficient. Wage earners as a class require a cheap, speedy procedure and some one to work the machinery for them. These laws all impose a preliminary expense on the wage earner. They do not expedite the trial of the case in the courts, although the penalty is supposed to urge the employer to settle. They do not provide a means whereby the case will be conducted through the intricacies of legal procedure. The worker must secure a lawyer. Where there is no provision for an attorney's fee the worker is in a weak position. Where the attorney's fee is allowed it savors somewhat of a contingent fee arrangement, because the lawyer must win the case to get a fee. To bring the suit may require court costs and if the employee does not have the money for this the law is of little value to him.

The most interesting legislative effort has been to create an administrative official and place in his hands the duty of enforcing wage payment laws. This plan is established by the statutes of the following States:

California (Deering, G. L., California Cons., Supp. 1917-1919, act 2142 V., sec. 7).

Nevada (Acts 1919, ch. 71, sec. 7; Statutes 1920-21, ch. 138).

Utah (Acts 1919, ch. 71, sec. 9).

Wyoming (C. S. (1920), sec. 264).

Massachusetts (G. L. (1921), ch. 149 et seq.).

Washington (Acts 1919, ch. 191).

In California and in Washington the administrative officials may arbitrate seasonal labor wage claims and all of the officials have acquired a sort of de facto jurisdiction to hear complaints and to adjust them partly by arbitration and partly by conciliation. But the commissioner can not enforce a decision against an employer who refuses to comply. In such case he must proceed in court.

From the available experience the best plan clearly seems to consist of these features: (1) A law requiring payment of wages weekly, (2) a law making the nonpayment of wages a criminal offense, (3) intrusting the enforcement of this law to an administrative official, generally called a labor commissioner. By making the proceeding criminal instead of civil not only is the law itself made more stringent but also a more summary process is availed of and the problem of court costs is eliminated, because costs are not required as a condition precedent to the institution of a criminal complaint. To conduct criminal proceedings the laborer needs legal assistance, but this the labor commissioner or an attorney on his staff may furnish. This is the Massachusetts plan and apparently it is more effective than any other plan in any comparable State. In 1924 Louisiana adopted this plan and if it could be extended throughout the States we should need to seek no further for a solution.

Constitutional provisions, however, raise serious difficulties. Wage payment laws have had to run the gauntlet of attack on various grounds, some have been approved and others have been condemned. This is not the place for a dissertation on constitutional law, but it is worth while to indicate the complexity of the law in the hope that sooner or later an exhaustive study of this topic may be made on which could be based a model law that would avoid the constitutional objections voiced by American courts and that could therefore be offered to the State legislatures for adoption.

Statutes applying to both individual and corporate employers but extending only to certain classes or types of employers are attacked as class legislation. They have been upheld in California, Indiana, Kentucky, and Louisiana, but they have been declared void in Maryland, Mississippi, Michigan, and Ohio.

Statutes applying only to corporate employers are attacked as class legislation. Again we find a conflict of authority, but the decided weight of authority is that they are valid. Statutes of this character are apt to be held unconstitutional only if they fail to include all corporate employers.

Some statutes have failed because of defects in title and other technical objections which are insignificant and so easily cured that they need not detain us, but two further serious objections remain. The first is the impairing of obligation of contracts. It is true that if the law requires wages to be paid weekly the master and servant may not agree that they shall be paid monthly, and this is an abridgment of the "freedom of contract." A Pennsylvania decision (*Commonwealth v. Isenberg* (1895), 4 Pa. D. R. 579) holds that such a statute substitutes a contract made by the legislature for a contract freely entered into by the parties and is therefore void. This objection can be overcome only by the theory that such a statute is within the police power, that the social interest in the prompt payment of wages is so great that the State may intervene through legislation.

The final objection is that any attempt to make nonpayment of wages a crime is, in effect, to legalize imprisonment for debt. The Massachusetts statute was never exposed to this danger, because the Massachusetts constitution does not prohibit imprisonment for debt. Most State constitutions, however, do contain the prohibition, unless the debt is contracted in a fraudulent manner. On this point the decisions are in conflict so that no clear rule can be laid down, but there is reason to hope that by careful wording a statute may avoid the imprisonment for debt difficulty by standing on the ground that any general or continuing refusal to pay wages earned is in itself *prima facie* evidence of fraud.

We have earlier noticed that certain statutes providing civil penalties have been held unconstitutional, as in *Davidow v. Wadsworth Mfg. Co.* (211 Michigan, 90 (1920)), but we need not digress to consider this series of cases, because, in our opinion, the plan of civil penalties is not as effective as can be devised; it certainly is not so effective as the Massachusetts plan, and the best hope for progress is to profit from the experience already available and to concentrate on the plan that offers the best solution.

There is excellent reason to believe that by the exercise of caution and foresight in draftsmanship the essentials of the so-called Massachusetts plan can be embodied in a model statute that will pass any constitutional challenge. Statutes requiring the periodic payment of wages have come before the United States Supreme Court and have been upheld. The reasoning of the Supreme Court, as expressed in *St. Louis Ry. Co. v. Paul* (173 U. S. 404), is in substance "the right to contract is not absolute, but may be subjected to the restraints demanded by the safety and welfare of the State." Our economic concepts are constantly being broadened under the pressure of modern conditions. The trend of public opinion generally and of the courts as well is certain to be in the direction of recognizing more clearly the direct interest of the State in promoting the general welfare by requiring the prompt payment of wages.

Certain it is that the administrative plan offers an excellent solution for this particular aspect of our problem. A proper wage payment law, enforced by a labor commissioner, will afford a summary and an inexpensive method whereby wage earners may enforce their claims. In fact, the existence of such a law and of such an official is apt to make the law self-executing; in States where it exists wages will be paid, and it will not need to be invoked except in comparatively few instances. The solution is a sound one because it eliminates those factors that heretofore have prevented the law from being actively effective. Delay is avoided because the proceeding is summary in nature, no prepayment of court costs is required, and in most cases no employment of counsel is needed because the labor commissioner himself or his deputy can furnish to the complainant legal advice as to his rights and assist in drawing and presenting the complaint.

Only one final point needs consideration. Because this administrative plan is so excellent there is danger in expecting it to perform more than it ought to perform. It will unquestionably suffice

for the great majority of matters within its jurisdiction, just as do the industrial accident commissions, but there nevertheless will be contested cases where, if justice is to be done, the wage earner must be represented by counsel. There will be cases which for one reason or another do not fall within the scope of the statute and there will be cases within the statute where real issues of fact will arise, as that the wage earner was absent from his place of work or performed his duties in an improper manner so that nothing is owed him. The labor commissioner can not be expected to run a general law office, but at this juncture it seems that the legal aid organizations might well step in. The idea of cooperation between labor commissioners and legal aid organizations in wage claims where the claimant needs attorney's services is precisely the same as the plan of cooperation between industrial accident commissions and legal aid organizations, already noted in Chapter IX, in compensation cases where the injured workman needs legal services.

The first step toward insuring this cooperation has been taken. It was discussed in 1924 at the annual meeting of the Association of Governmental Labor Officials of the United States and Canada. That body appointed a committee which is to confer with a like committee already appointed by the National Association of Legal Aid Organizations. In addition to devising the practical ways and means for joint work under existing laws, it is to be hoped that these committees, together with the American Bar Association, may undertake the responsibility for drafting a general wage-payment law that may extend the benefits of this plan, providing for the collection of unpaid wages by administrative officials, to wage earners throughout the Nation.

CHAPTER XI.—DEFENDER IN CRIMINAL CASES

The defender in criminal cases is a lawyer who represents indigent persons accused of crime. He is commonly called the "public defender," but as his compensation may come either from the State or from some private organization which employs him, we shall use the phrase "defender in criminal cases" to denote all public or private agents engaged in this work. The defender's work is, in reality, legal aid work in the criminal field. The dramatic features of the defender have given his efforts a greater amount of publicity than has fallen to the lot of the similar organizations in the civil field, because the fact that the life and liberty of the client are at stake makes the problem more engrossing.

While the defender in criminal cases has only recently become a part of the administration of justice in this country the idea itself is an old one. Spain had an officer corresponding to the defender in the fifteenth century. To-day in the laws of Hungary, Argentina, France, Belgium, Mexico, Norway, England, Denmark, and Germany provision is made for such an official; in many of these countries the plan has existed for some time. The idea was discussed early in our own history and in the constitutions of practically all the States

we find established the first step toward the defender, and that is the plan for assigned counsel appointed by the court to defend the indigent accused, which we have already noted in Chapter V.

Before discussing the arguments pro and con about the defender in criminal cases it is helpful to get a concrete picture of the nature of the defender's work, such as is afforded by the case of *State v. Israel* in which the public defender for Bridgeport played an invaluable part and which came before the Criminal Superior Court for Fairfield County, Conn., on May 27, 1924.

Israel was indicted for murder of a priest. The murder was an atrocious one in which the assailant had shot his victim through the head with a revolver. The shooting occurred on the streets of Bridgeport about 7.45 p. m., and the murderer was seen by several people to flee rapidly from the scene of the crime and disappear. The police became very active, but for two weeks made no arrest. Harold Israel, an ex-service man, about this time was out of work and set out to walk to Norwalk. He had in his pocket a loaded revolver which he had owned for a long time. He was picked up by a policeman as a suspicious person. The police spent hours questioning him as a suspect. At first he denied the crime, but finally he signed a confession and was thereupon indicted by the grand jury.

Mr. De Forrest, the public defender in Bridgeport, immediately became interested in the case because of the youth of the prisoner, his lack of friends, and the seriousness of the charge against him. Mr. De Forrest appeared at the coroner's hearing and was impressed with the mental condition and evident distress of the accused. The evidence adduced by the prosecution seemed without a flaw. Witnesses identified the accused as the person whom they had seen commit the crime. The deceased had been shot by a 32-caliber revolver. The accused had such a revolver with four chambers loaded and one chamber empty. Upon being questioned the accused indicated where the missing cartridge could be found. A cartridge was found there. An engineer formerly in the ballistic department of the Remington Arms Co. after experiments reached the conclusion that the fatal bullet had been fired through Israel's revolver.

Yet the public defender was struck with the strangeness of the case and became convinced that the man was innocent. This opinion he stated in the public press and to the State's attorney. His insistence induced the State's attorney to commence an independent investigation. The situation was remarkable because the net of evidence secured by the police and others appeared sufficient to convict the accused of first-degree murder.

The result of the investigation of the State's attorney was first to disprove the confession. It was clearly demonstrated that the mentality of the accused was defective and that he had completely succumbed to the stronger wills of the police. One by one the identification by various witnesses was proved to be mistaken. It was shown that Israel could not possibly have been the man whom they saw commit the murder. Finally a group of ballistic engineers made an examination and came to the conclusion that the bullet causing

the death had not been fired from Israel's revolver. This technical evidence was so conclusive that the State's attorney appeared in court and nol-prossed the case against Israel.

When one considers the prominence of the deceased, the public clamor over his death, the demand for vengeance, and the apparently flawless case against the accused, there is reason to believe that an innocent man would have paid the extreme penalty for a crime he did not commit if he had been obliged to provide and pay for his own defense. He was saved by the lawyerlike work of the defender and also, let us remember, by the cordial and thorough cooperation of the prosecuting attorney.

In the last few years discussion as to the defender has advanced from a theoretical basis to a practical one. We know how the plan operates, and with that knowledge we have been able to brush away many theoretical objections with which the proposal was originally met. It should be kept in mind that there is little or no argument on the proposition that a person accused of crime is entitled to be represented by counsel in his behalf. The question arises when it is urged that special effort be made to supply legal assistance to poor persons who can not pay for the services.

A survey of the literature dealing with the defender reveals 23 different objections. Many of these are simply variations of the same theme, and by grouping all similar objections together we can shorten our consideration of them.

One group of objections is based on the belief that the defender is a person whose duty is to keep dishonest persons from going to jail. It is contended that such a person will frustrate the efforts of the district attorney; that the State should not champion criminals; that it is illogical to have one official to put men in jail and another to keep them out. In practice none of these fears has been realized. What has happened is a revision of the ideas of many persons regarding the real purpose of a criminal proceeding. We now see clearly that it is as much the function of the State to protect innocent persons from going to jail as it is to send guilty persons to punishment. We know now that a criminal trial is not a contest in which the State's only interest is to secure a conviction, but a scientific search for the truth in which the State may well engage impartially, and to that end may support both sides to insure impartiality.

Another group of objections alleges that the defender is unnecessary and superfluous. It is argued that the laws throw safeguards around the person of the accused; that the judge and the district attorney are bound to protect him. Practice has here disclosed the fact that such safeguards in the law may be ineffective unless there is some counsel to assert them. It also demonstrates that while in a perfectly clear case the rights of the accused will be protected, yet if a careful investigation of the law or facts is necessary to disclose a proper defense and prepare it for trial the defendant must have some one actively and affirmatively working in his behalf. If he can afford it, the defense is prepared by able counsel. The equal protection of the laws is not attained unless we provide legal assistance for the man who can not afford it. Such a consideration should in

itself outweigh any objection based on the expense to the public of such an official, and experience demonstrates that the cost is small. It is much less than that of the district attorney. The presence of the defender, furthermore, has the effect of winnowing out at an early stage all cases except those where a trial is absolutely necessary. This results in a substantial saving because the cost of a criminal trial is about \$200 a day.

Some of the objections are rooted in the fact that the objectors believe the "public defender" is merely a new elective official who will be subject to all the political difficulties, graft, and incompetence which they regard as attaching to too many public officials. Presumably such persons would not object to a defender's office conducted and supported as a private philanthropy, as is the Voluntary Defender's Committee in New York. This clash of opinion as between public and private agencies need not be considered here, because it is discussed in detail in Chapter XV.

Again objection is raised on the score that we are too sentimental with criminals. This objection begs the question because a man accused of crime is not necessarily a criminal. If he were, there would be no need of the trial. It is for the purpose of determining accurately this question of fact by means of an impartial trial that the need for a defender arises.

There are many pronouncements in our State constitutions to the effect that the accused in a criminal trial shall be entitled to counsel. To make this constitutional guaranty actively effective in all cases some definite provision must be made to secure counsel to those persons who are too poor to employ counsel at their own expense. In final analysis the argument about the defender must be resolved by ascertaining whether any other adequate and satisfactory plan is available for the protection of indigent defendants. In general the laws provide three distinct remedies, viz: (a) Unpaid assigned counsel, (b) paid assigned counsel, (c) a regular defender's office.

Assignment of counsel for indigent defendants in capital cases is provided for in 48 States. In felony cases the law provides for the assignment of counsel in 35 States. In misdemeanor cases—that is, when the crime charged is a minor one—provision for assigned counsel is made in 28 States.

In general we may say that the plan of assigned counsel works in capital cases. The dramatic situation and the attendant publicity are sufficient to insure the lawyer's best efforts, and in capital cases the lawyer receives compensation for his work. As to felony cases the efficacy of the plan is doubtful. In misdemeanor cases it appears that counsel are seldom assigned in actual practice.

In considering how these laws operate we come next to the compulsory provisions. It is clear that if the law makes the assignment of counsel compulsory it is much more likely to be enforced than if the words used are permissive only.

The statute contains the word "must" in 9 States. But of these the reference is to capital cases in 4 States and of the remainder the reference is to felony cases in 2 States. The provision is enforceable at the request of the accused in 28 States and is enforceable in the discretion of the court in 7 States.

It appears only too often that the accused may waive his right to counsel; that if he does not demand his right at trial he will be

presumed to have waived it. Obviously in the case of an uneducated person or a foreigner it frequently means that he will not know enough to assert his right.

We must next consider how far the laws compensate the assigned lawyers for their work. It is asking little to require a lawyer to care for one case a year without compensation; but it is an imposition to expect a man to give his professional services without compensation twenty or thirty times a year, and as we have noted in Chapter V this is the point at which the assigned counsel plan is apt to break down.

Payment is allowed in 32 States, but of these 22 give compensation in murder cases only, so that the number of States that provide compensation for assigned counsel in all cases is only 10.

A lump-sum payment is provided in 10 States, a per diem payment is provided in 3 States, payment is in the discretion of the court in 6 States, and a salary is paid to the defender in 3 States.

The amount of compensation throws a curious light on the relative value set by the States on such matters. In capital cases lump-sum compensation ranges between \$25 and \$500, in felony cases between \$25 and \$50, in capital cases per diem compensation averages about \$20 or \$25, and in felony cases per diem compensation averages about \$10.

The problem of incidental expenses is important. This includes expert testimony, witness fees, and traveling expenses, as well as those items of one sort or another which are essential to the proper preparation of a case. A wealthy man in appearing before a criminal court is able to pay for such aids. The Loeb-Leopold case recently tried in Chicago illustrates how great may be the expense for evidence given by medical specialists, detectives, and so on. Such evidence was prepared and used both by the prosecution and the defense. The question naturally arises as to how a poor man would fare if he was involved in a case requiring such elaborate preparation. One is tempted to inquire what might have been the outcome of *State v. Israel* if no aid had been provided. Nearly every case, if it is to be properly prepared and tried, involves some incidental expenses, but in the great majority of States provision is not made for such expenses.

This is a substantial defect in the assigned counsel plan. It means that either the attorney must pay the incidental expenses out of his own pocket, which of course he can not afford to do and therefore does not do, or the defendant must go to trial and do the best he can in spite of an inadequate preparation of his case. In only eight States are the expenses defrayed by the State, and in two of these the expenses will be borne by the State only in capital cases. In seven States the law expressly prohibits any reimbursement to the lawyer for such incidental expenses. Not more than four or five States have adequate provisions on this point, and in three of these States the adequate provision exists as part of the public defender plan.

Even where assigned counsel are provided the laws restrict their work to certain courts; it is rarely the case that a law provides the accused with an attorney to represent him from the very beginning to the very end of the proceedings. Thus provision is made for the appearance of counsel in the regular criminal trial courts in 34 States; but similar provisions for appearance in the magistrates' or

other lower courts are found in only 8 States and for appearance in appellate courts we find definite provisions in only 2 States.

Counsel are assigned to the indigent accused person in 4 States at the time of his arrest, at the time of indictment in 12 States, at the time of arraignment (when the prisoner pleads guilty or not guilty to the indictment) in 12 States, and at the time of trial in 14 States.

The importance of the court in which the defender appears is clearly shown by the services of such an officer. He is to expedite the trial of criminal cases by helping to eliminate all those where there is no need for a trial and by sorting out the cases where the person is clearly not guilty, thus saving the county the expense of complicated proceedings. It is obvious that the earlier in the case the defense may be thoroughly studied by an impartial expert the sooner will its validity be tested. If the case has no merit, a plea of guilty may be entered. If the defense is sound, prosecution may be dropped. This saves time and money. Another phase of the desirability of early assignment of counsel grows out of the celebrated "third degree." The police are often accused of resorting to "third degree" methods to obtain a confession. Whether or not such practices are often resorted to, it is certainly desirable that the accused should have the benefit of counsel's advice and protection at every stage in the proceedings.

Finally we must consider who selects the lawyer for the accused and who determines whether the accused is entitled to any aid of this sort.

The selection of the lawyer for the defense may or may not be a valuable asset in the hands of the defense. The law in three States allows the defendant to make a selection. In the other States the selection is in the hands of the court. The public defender plan has been objected to on the ground that it gives no freedom of choice to the defendant as to who shall represent him, but this is an objection as well to the assigned counsel plan as it exists in most States. It is urged that if a man of means is arrested and comes into court he may secure the ablest lawyers to represent him. Equal protection of the laws, it is claimed, requires that the indigent accused should have the same right and that he should not be forced to a trial involving his life or liberty with only the services of some assigned lawyer whom he does not want. The practical operation of the assigned counsel system in many States gives some ground for such an objection. The lawyers selected are apt to be of two sorts, either young and inexperienced men who wish to gain experience at the expense of the client, or older men who are present in the court room expressly for the purpose of receiving these appointments. Neither group represents the best element at the bar and neither is able to afford the accused a first-class defense. The more able lawyers, whether in civil or criminal practice, are too busy to spare the time in such comparatively unremunerative work, and the courts rather hesitate to select the better lawyers because it seems like an imposition.

The objection, when directed against the defender plan, we are inclined to think is not of great practical importance. The State can not afford unlimited aid to every defendant; if it makes some efficient provision in his behalf, its duty is performed. We must remember that the complainant in a criminal case, for example, the

man who has been robbed and who has sworn out the warrant against the defendant, has no choice of attorneys; at the trial he is represented by the district attorney whether he happens to like the district attorney or not. Furthermore, the public defender is not forced on the defendant, who is perfectly free to be represented by any other lawyer if he can get one. If he has a friend at the bar and the friend is willing to serve, then the public defender will not interfere or inject himself into the case in any way.

To determine whether a defendant is so poor as to be entitled to have counsel assigned to him is customarily within the discretion of the court. In California the test is whether the defendant is worth less than \$100, and in 41 States the decision is not fixed by any definite amount, but is left entirely to the court. There is little reason to believe that the courts are imposed on in this particular, because, as the assignment plan works to-day, a defendant will procure his own attorney if he can possibly do so. There is more danger of imposition in connection with the defender plan, because as the defender is paid a salary he can afford to work hard on the cases committed to his care, and in the steady course of his work he is apt to become as highly proficient as any lawyer of the criminal bar. It is easy under such circumstances to conceive of persons who would sham poverty in order to secure his services without cost. The best check will undoubtedly be to permit the defender himself, after investigation, to determine whether the defendant is properly entitled to assistance and to report his finding to the court. The problem is only a minor one in any event. It is the same as that considered in Chapter IV in connection with *in forma pauperis* procedure, and here, as there, the sound solution seems to be to place the burden of this preliminary inquiry into the applicant's economic status on an administrative official whose finding is subject to control by the court but who can in ninety-nine cases out of a hundred perform the task in a perfectly satisfactory manner, so that the burden is not thrust on the courts.

Viewing the country as a whole to determine how far the administration of justice is empowered and equipped to provide adequate protection for poor persons accused of crime we find that the statutes do not afford any thorough and comprehensive plan. The situation is not unlike that disclosed in Chapter IV when we examined the laws regulating the various procedures designed to enable poor persons to sue without prepayment of costs. The position of the man of no financial resources before the law has received insufficient attention, with the result that our statutes represent a hodgepodge of good intentions which fall short of the mark because they are built on false premises or because of inherent limitations that make them ineffective in actual practice. Summarizing the facts contained in the preceding pages of this chapter, we may say that the assignment plan exists in its best form and operates most successfully in capital cases. Also, in noncapital cases when assigned counsel are paid the plan does serve to provide adequate representation for the defense, although, as we shall try to indicate later, this is accomplished in an unnecessarily expensive and cumbersome manner. But in at least 35 States the indigent defendant, unless he is charged with murder, must rely on unpaid assigned counsel or go without any representation at all.

It is this situation that has brought about the various recent experiments which we have called "the defender in criminal cases." These experiments have been conducted along different lines and through different types of organizations. The least formal is that of the Chicago Bar Association Committee. Next we find public defenders definitely established in certain cities, as in Omaha, Minneapolis, San Francisco. Variations of this municipal plan exist in connection with the inferior courts in Los Angeles and in Cleveland. In Connecticut the public defenders are county officers appointed by the superior court judges. Finally, there are the two great defender organizations, the public defender of Los Angeles County and the Voluntary Defenders Committee in New York City.

The Chicago Bar Association Committee has a chairman and a secretary. It is composed of practicing attorneys who are willing to devote a certain amount of their time to this work. Cases are referred from the jail or from some prison welfare association. The application for assistance comes in the form of a request to the secretary or chairman of the committee. The chairman then assigns some member of the committee to handle the case and, if he wishes it, arranges for the assignment of two law students of the Northwestern University Law School as assistants. These law students look up the witnesses, interview the prisoner, do all sorts of investigating work, and under the direction of the older lawyers prepare the case for trial. The lawyer tries the case with the younger men sitting in as juniors. This plan may develop into a definite defender organization; in its present form it is like the assignment plans already discussed except that it is controlled by the bar association instead of the courts; and with the interesting variation that it utilizes the services of law students who are willing to do much of the time-consuming work without pay.

As an illustration of the Connecticut plan we may take the public defender in Hartford. Each year the judges of the county appoint a defender from among the practicing attorneys. The work does not take all of the lawyer's time and he is entitled to continue his private practice. There are four terms of court each year. The method of operation, for example, in the June term, is as follows: About May 1 the defender obtains from the sheriff the names of all prisoners who require his services. He does not take bail cases except under unusual circumstances because in general prisoners able to obtain bail are also able to employ counsel. This supplies a number of cases for the defender. Others come in afterwards, as where the prisoner expected private counsel to be paid by friends and was disappointed, or where the arrest has been made after May 1 but before the term of court.

The first step is to interview each of these prisoners and endeavor to get the facts in his case. The public defender may then subpoena witnesses, secure the services of a detective, and employ all necessary devices to secure the correct information and proof. The bills for such incidental expenses are submitted at the end of the month, approved by the court, and paid by the county.

In this way the defender becomes conversant with the facts in each case. The next step is to confer with the defendant and decide what is to be done. There are three classes of cases—those

where the accused is obviously innocent, those where he is obviously guilty, and those where there is doubt. In the first class the matter is taken up at once with the district attorney and the proof is submitted frankly to him. Upon agreement of counsel the court releases the prisoner. In the second class of cases the prisoner is urged to plead guilty. If he refuses, he is at all events entitled to a fair trial, so that what he regards as the merits of his case may be fairly heard, and this the defender affords him. In the doubtful cases the defender frequently goes to the prosecutor, lays his cards on the table and the district attorney does the same. If there is still doubt, the case must be tried. But as a practical matter the result of this procedure is that in most cases there is no need for trial. It is here that the economy of the defender's office makes itself manifest.

This preliminary work takes up the second and third weeks in May. On the 1st of June the trials begin and the cases thereupon take their regular course.

The Hartford defender is on a salary and handles no criminal cases at all in his private practice. He regards the work as a definite professional responsibility just like any other part of his law practice.

The defenders in Minneapolis and Omaha perform their work in a manner quite similar to that already described. It should be pointed out, however, that in Omaha the public defender is elected.

The public defender for Los Angeles County, Calif., established in January, 1914, was the first office of its kind in this country and attracted a great deal of attention. Its office force consists of the defender and five deputies. Its existence is provided for by the county charter. It handles only cases in the superior court. The office is subject to civil service regulations and has been filled by men of the highest standing. Its work is not dissimilar to that described in Hartford, but it is on a much larger scale. The applicants for aid are interviewed, evidence is secured as to their guilt or innocence, efforts are made to adjust the matter with the district attorney, and if all else fails the case is tried. One of the phases of the work of this office is to care for civil cases, in which it is exactly like a legal aid society. The valuable reports of this office served to make the public defender known throughout the country, and supply many of the figures which are set forth later in this chapter.

The New York Voluntary Defenders Committee is the best example of a private organization operating in the field. In 1914 the Association of the Bar of the City of New York and the New York County Lawyers' Association, each appointed a committee to report upon "the necessity and advisability of creating the office of public defender in New York City." The report was against a public but in favor of a private defender. The organization of the Voluntary Defenders Committee followed. Court work was initiated in April, 1917. The organization was merged with the New York Legal Aid Society in 1919.

The voluntary defender's office staff consists of two lawyers, five investigators, and a clerk. While the actual handling of the work follows the same general channels as those described above, there

are certain distinctive features here. In the first place the preliminary interview with the prisoner is by an investigator instead of by an attorney. The investigating department then proceeds to gather data as to the history of the defendant, the facts of the case, and any other matters which appear pertinent. When this preparation has been completed the attorney that will try the case has an interview with the accused and advises him as to the proper course to pursue.

The defenders thus far considered confine their work almost exclusively to cases in the superior courts. As to the work in the lower courts we have two examples. The most recent one is afforded in the city of Cleveland. The attorney for the Legal Aid Society of Cleveland, writing on August 13, 1924, describes the new project as follows:

Due to very bad conditions existing in the police court, in which ignorant people are being subjected to all sorts of crooked practices, the welfare federation and the community fund, at the request of our trustees, made a special appropriation to enable us to add another attorney to our force. He will be assigned to the police court and will interview these people and endeavor to protect them from many of the evils and dangers to which they have been subject in the misdemeanor cases. This project has the unqualified support of all the judges of the municipal court, particularly Chief Justice Dempsey. We believe that it holds great possibilities for good.

The other example is of longer standing and is the city police court defender in Los Angeles, whose office was created by ordinance November 18, 1915. It was established to provide a public defender in the city's police court and to furnish with legal assistance all prisoners held in the city jail who are financially unable to employ attorneys. Actual work was begun on February 14, 1916, with one lawyer and one stenographer. Quarters were assigned near the court so as to enable the defender to interview relatives and friends of prisoners and to furnish all desired information about the status of police-court trials, past, present, and future. A second lawyer was later added because of the pressure of work. Both spend the early part of the morning in the office attending to the routine, the forenoon in the city jail interviewing prisoners, and the afternoon in the trial of cases. This is possible because the judges hear the noncontested cases in the morning. The steady growth of the work led to the appointment of a woman assistant whose duties consist of acting as counsel for women prisoners and appearing for them in the separate court which is provided for the hearing of charges involving sexual misconduct.

The jurisdiction of the Los Angeles police court includes such matters as larceny, vagrancy, disturbing the peace, visiting lotteries, embezzlement, fictitious checks, indecent exposure, carrying concealed weapons, addiction to drugs, and prostitution. The most serious offenses within its jurisdiction are criminal libel and assault and battery.

The defendants in all cases of felonies (State's prison offenses), which are not triable in the police court, are transferred to the county jail, where after indictment or after having been given a preliminary examination they are held for trial in the superior court. When they appear in the superior court they may have the county public defender take up their cases.

This rather extended statement of the nature and scope of the Los Angeles police court defender's work is necessary because it is the best illustration of such work in the lower courts, and there is a difference of opinion as to whether defenders are needed in these lower courts. The Los Angeles police court defender, writing on this subject in March, 1923, urges the need for his type of office on the ground that the police courts are trial courts although not courts of record, and the verdict of such a court is quite as effective against the prisoner as a verdict of a superior court. In California there is no criminal offense triable at all in the police court in which the defendant is not entitled to a jury trial. In fact, he must specifically waive his right of trial by jury, and this waiver must be concurred in by the prosecutor. The seriousness of the punishments and the number of offenses triable both constitute a valid reason for the existence of some person to aid in weeding out cases which need not be tried, in saving the city the expense of unnecessary trials, and in seeing that the defendant has a fair presentation of his rights. The Los Angeles police court defender has made an excellent record, from which it would appear that in cities where the police court has an important criminal jurisdiction the establishment of the defender's office may well be worth while.

As no complete statement of the amount of work performed by the defenders has ever appeared in print, it is important to state here as fully and as accurately as circumstances permit the number of cases in which the defenders have acted as counsel for impoverished defendants. There are 12 defenders' offices in the United States at this time. As to three—Chicago, Memphis, and Norfolk—no records are available. Of the remaining nine, three—Bridgeport, New Haven, and Omaha—have never tabulated their statistics, but from their individual case records it has been possible to estimate the average number of cases received from year to year. The following table gives all the detailed figures for the years 1920 to 1923, inclusive. Prior to 1920 only five organizations existed, and their records are as follows: The Los Angeles County public defender received 562 cases in 1915, 402 in 1916, 463 in 1917, 495 in 1918, and 535 in 1919. The New York Voluntary Defenders Committee (working in Manhattan) received 484 cases in 1917, 533 in 1918, and 697 in 1919. The Hartford public defender received 90 cases in 1917, 122 in 1918, and 104 in 1919. The Minneapolis public defender received 118 cases in 1918 and 189 in 1919. From 1916 to 1919 the work of the Los Angeles police court defender aggregated 9,010 cases.

Adding these figures to those in the following table, we find that the total work already performed by the defenders' offices in the United States is greater in extent than most persons realize. The totals for the respective organizations from their commencing work through the year 1923 are these: Los Angeles County public defender, 5,638; New York Voluntary Defenders Committee, 3,865; Hartford, 710; Minneapolis, 1,288; San Francisco, 2,232; Los Angeles police court defender, 18,606; Omaha, 900; Bridgeport, 1,200; and New Haven, 4,500. From these records which understate rather than overstate the truth we learn what has already been accomplished, and by estimating the 1924 volume of work at about 6,000 cases it is fair to state that the defenders' offices have already extended their assistance to approximately 45,000 persons in criminal cases.

NUMBER OF CASES HANDLED BY DEFENDERS' OFFICES, 1920 TO 1923

Defenders' office	1920	1921	1922	1923
Los Angeles County public defender.....	558	675	956	992
Los Angeles police court public defender...	3, 608	1, 989	2, 504	1, 495
New York (Manhattan).....	463	610	575	503
Hartford.....	97	126	101	70
Minneapolis.....	163	320	246	252
San Francisco.....		337	876	1, 019
Omaha.....	100	100	350	350
Bridgeport.....	1 200	1 200	1 200	1 200
New Haven.....	1 750	1 750	1 750	1 750
Total.....	5, 939	5, 107	6, 558	5, 631

¹ Average per annum for 6 years, 1918 to 1923.

The following table serves in a rough way to indicate the extent of the work by comparing the number of cases handled by each office with the population of the community served by such office:

CASES HANDLED BY DEFENDERS' OFFICES PER 100,000 POPULATION

City	Population, 1920	Cases handled, 1923	Cases handled per 100,000 population
Los Angeles.....	982, 000	2, 487	253. 3
New York (Manhattan).....	2, 284, 000	1 503	1 22. 0
Hartford.....	138, 000	70	50. 7
Minneapolis.....	381, 000	252	66. 1
San Francisco.....	507, 000	1, 019	201. 0
Omaha.....	192, 000	350	182. 3
Bridgeport.....	144, 000	200	138. 9
New Haven.....	163, 000	750	460. 1
Total.....	4, 791, 000	5, 631	117. 5

¹ The figures are out of proportion because New York has the assigned counsel plan and the courts assign many cases to individual attorneys and not to the defender's committee.

The best way to appraise the work of the various defenders is by comparing it with the work of assigned counsel so far as such records are available. Through such records we can weigh the merits of the defender plan as contrasted with the assigned counsel plan and thus inductively arrive at an opinion concerning the defender that is far more interesting and far more likely to be right than any metaphysical balancing of the theoretical arguments pro and con.

We have earlier seen that we might divide the States into three groups according to the provision that they make for providing counsel to indigent persons arraigned on a serious criminal charge. In the first group are States, such as Massachusetts, which, except in capital cases, make no provision whatsoever for assigning counsel. Between such a system and the public defender plan no statistical comparison is possible and none is needed. Something is always better than nothing, and the defender plan is obviously a method of some merit in affording counsel to indigent defendants whereas the Massachusetts situation reveals no plan or method whatsoever.

The second group of States consists of those which assign counsel in criminal cases but which provide no compensation for such assigned lawyers and which further make no provision for the expenses incidental to the preparation of the case. It so happens that California fell in this group prior to 1914 so that we can make a comparison between the work of unpaid assigned counsel in Los Angeles in 1913 and the work of the public defender in Los Angeles in 1914. A third column of figures showing the work of the paid private attorneys in 1914 is also submitted. The following table merits careful examination because it is based on official court records compiled by Walton J. Wood, the first public defender and now a judge of the superior court in Los Angeles, and because it makes possible a contrast between the two systems which is essentially fair because all the surrounding circumstances were the same.

COMPARISON OF WORK OF PUBLIC DEFENDER AND OTHER SYSTEMS

Item	Assigned counsel serving in 1913 without pay	Public defender in 1914	Attorneys in private practice retained by defendants in 1914
Total number of cases received.....	115	260	514
Pleas of guilty.....	71	183	250
Per cent of cases in which pleas of guilty were entered.....	61. 7	70. 4	48. 6
Number of such cases in which probation was granted.....	31	87	154
Per cent of such cases in which probation was granted.....	27. 0	33. 5	30. 0
Number of trials.....	30	58	147
Per cent of cases that went to trial.....	26. 1	22. 3	28. 6
Verdicts of not guilty or disagreements.....	6	20	54
Per cent of trials in which verdict of not guilty was rendered or jury disagreed.....	20. 0	34. 5	36. 7

The difference between the number of cases handled by the assigned attorneys in 1913 and the cases handled by the public defender in 1914 can not be accounted for by the growth of population. It is due to the fact that the lawyers who commonly took the assignments were of such a low grade that the defendants avoided them whenever it was possible. These men hung about the jails and solicited business, but with the advent of the public defender they have almost entirely disappeared.

It will be noted that a larger percentage of the defendants represented by the public defender pleaded guilty than was the case with the assigned attorneys. This has avoided unnecessary trials and has resulted in a saving of expense to the county. This was not obtained by sacrificing the defendant's rights because it also appears that a larger percentage of the defendants represented by the public defender were acquitted or placed on probation than of the defendants represented by the assigned attorneys. The public defender accomplished nearly the same results on behalf of his clients as the paid attorneys in private practice, the former securing probation for a slightly larger percentage, and the paid attorneys in private practice securing a slightly larger percentage of acquittals.

Because when the public defender is advocated the objection of expense is always raised, we have consistently tried to point out the economy which attends the defender's office due to the saving of the wasteful expense of unnecessary trials. This saving goes even further, and applies to the cases that are tried. The defender endeavors to conduct his cases according to the substantial merit of his defense and without constantly invoking the technicalities and subtleties with which unfortunately our criminal procedure abounds. To the foregoing table giving comparative results of work in Los Angeles we may add the following supplementary figures. The private attorneys in 1914 filed demurrers or motions to set aside the indictment in 61 instances, in only 4 of which were the motions sustained; the public defender filed only 2 such motions and was vindicated in both. The private attorneys filed 27 motions for new trials and one such motion was granted; the public defender filed 6 motions for new trials, none of which was allowed. The private attorneys took 27 appeals and the public defender 3.

Even in the trials themselves time is saved, because the public defender is interested only in matters of substance, and because it is feasible for the prosecutor and defender to agree on certain aspects of the case and to enter into stipulations which shorten the course of the trial. The following table was prepared by Mr. Wood and its significance lies in the fact that if a public defender's office can save approximately half a day on each trial that is a saving to the county of \$100, so that in the course of a year's trials the defender's office goes a long way toward paying for its own expense.

SAVING OF TIME IN TRIALS BY PUBLIC DEFENDER

Item .	Attorneys in private practice paid by defendants in 1914	Public defender in 1914
Number of court days occupied by trials.....	239 days for 147 trials.	59 days for 58 trials.
Average time for each trial.....	1.626 days.....	1.017 days.
Average time on each trial saved by public defender.	-----	0.609 day.

In the presentation of figures there is always danger that important aspects of the work which can not be stated statistically may be overlooked. It is well therefore to note at this point that in Los Angeles the public defender endeavors to help those persons who come into his charge by trying to convince them that honesty is the best policy and by cooperating with them in their effort to get a job and go straight. The most important consideration of all has already been pointed out, but it merits repetition. The man who has been represented by the public defender knows that he has received honest advice and that he has had a fair trial. The influence of this object lesson on him and his family and his circle of friends is to convince them that our legal institutions are fair and that under the law every man, even the poorest, not only is entitled to receive but actually does receive a square deal.

There remains for our consideration the small group of States that assign counsel and pay them, not only in capital offenses but in

all cases involving serious crimes and which are triable in the court of general criminal jurisdiction. It is not possible to compare the work of paid assigned counsel with the work of the defender, because the two systems do not exist side by side in the same jurisdiction nor has one been supplanted by the other, as was the case in Los Angeles. We can, however, test the work of the paid assigned counsel by comparing it with the work of the privately retained and privately paid attorneys. The Cleveland survey of criminal justice, made in 1922,¹ affords valuable statistics on this point.

The first task of the defendant's attorney is to get the case dismissed in some way, if he can, as by *nolle pros*, quashing the indictment, lack of prosecution, and so on. Failing in this disposition, counsel must then either have his client plead guilty or try the case. The remaining clients go to trial. After defendants have been sentenced there is still one more thing for counsel to do, and that is to try to secure a suspension of sentence. The figures for Cuyahoga County, Ohio, in which Cleveland is situated, are as follows:

RESULTS SECURED BY PAID ASSIGNED AND PRIVATELY RETAINED COUNSEL

Item	Represented by paid assigned counsel (per cent)	Represented by counsel privately retained (per cent)
Nol-prossed and other dispositions	23	25
Clients pleaded guilty	41	45
Result of trial:		
Guilty	70	56
Not guilty	30	44
Sentence suspended	17	21
Sentence executed	83	79

These figures indicate that the paid assigned counsel did their work reasonably well. The results obtained by them were a little less favorable to the defendants than those obtained by privately paid counsel, as one would naturally expect, but the discrepancy is too small to warrant any assumption that the assigned counsel were remiss or delinquent in their duties. We concur with the conclusion expressed in the report of the Cleveland survey that the system of paid assigned counsel is a reasonably satisfactory method of guaranteeing a fair trial to those poor persons who can not afford to retain counsel in their own behalf.

The cardinal point which we have sought to stress in this chapter is that the administration of justice must make some provision for poor persons accused of serious crimes. If all the States provided paid assigned counsel, this chapter need never have been written. But most of the States either assign counsel without pay, which we consider an inadequate plan, or make no provision at all for the general run of cases. Most of the States should undertake reforms in this field, and the best solution, we consider, is the public defender.

The superiority of the defender plan over the paid assigned counsel plan is not because it affords better protection to innocent defendants. We can not prove that and therefore do not argue it. We

¹ Cleveland Foundation, *Criminal Justice in Cleveland*. Cleveland, 1922. xxvii, 729 pp.

do believe, however, that the defender plan serves the defendant just as well as the paid assigned counsel plan and that it is inherently a more efficient and more economical method for getting the necessary work done.

In these days of high costs efficiency of organization which produces economy is worth while. It is logical to suppose that where all the cases of poor persons are centralized in one office, instead of being spread around in a large number of offices, there is a resulting efficiency which reduces cost. Certain figures confirm this. In 1920 the assigned counsel in Cleveland handled 528 cases at a cost to the county treasury of \$32,500. For several years the Los Angeles public defender has had about as many criminal cases (522 in 1917), and has, in addition, cared for several thousand civil cases (8,000 in 1916), at a cost to the county treasury of from \$20,000 to \$25,000.

The efficiency of the defender plan also results from the concentration of responsibility in one office. A routine is developed, the staff becomes expert, and there is rapidly worked out a special technique for the prompt dispatch of business. One further gain results from this concentration, and that is that a fund of information is made available from which the defender's office may study defects in the law and in the machinery of justice and thus be in a position to recommend remedial legislation. In the field of law there is entirely too little of this sort of constructive work, of applying the scientific method of study to the judicial machinery, and of using the available experience for the advancement of necessary reforms. It was this final reason which led the editors of the survey of the criminal courts in Cleveland to conclude that, while the system of paid assigned counsel was a proper method, the defender plan carried with it many substantial collateral advantages and was entitled to be regarded as the best plan thus far devised in the United States for guaranteeing the equal protection of the laws to poor persons in criminal cases.

A final question for brief consideration is whether the public defender or the private defender is the better type of organization in the more densely populated communities where some definite form of organization is required. It is doubtful if any absolute answer can be given. Different plans work well in different communities. In California, where the civil service is well established, the public defender may well be selected by that method and prove entirely satisfactory. In Connecticut, where the judiciary appoints the defender, excellent results are achieved. In New York City, where the bar association committees expressed a fear of political interference, a privately maintained organization is in successful operation.

Each of these systems works because of the personnel. There are two factors in the work—office system and personnel. The office system may well become a matter of routine and may be transmitted by written forms and records. Personnel is a different problem. Success does not depend on routine. The individuals chosen to do the work, from the chief counsel to the most lowly member of the staff, must have something more than a perfunctory interest in the work. The office force must be imbued with an intense desire to accomplish substantial justice in every case and must be willing to devote its best individual endeavors to that end. It is here that the public defender plan may have difficulty. The public tenure is

more or less uncertain. The continuity of the work may be interrupted by elections. Esprit de corps is destroyed if positions are filled not by merit but by political considerations. Evidence that this difficulty is real and not fanciful is afforded by the fact that an excellent public defender organization in Portland, Oreg., was destroyed by political interference in 1917 and has never since been revived.

The public defender plan, on the other hand, possesses the undoubted advantages that flow from the fact that the position is official and from its financial support which is definite and assured in contrast to the support of the private organization which is voluntary, more or less fluctuating, and therefore uncertain. The general tendency undoubtedly will be to establish defender's offices on a public basis, and this may be done with entire safety if there can be provided some guaranty against political interference, which destroys leadership and reduces the office to the level of a spiritless routine. The best available guaranty seems to be the alert watchfulness of local bar association committees. Because the defender in criminal cases is a necessary part of the administration of justice under modern conditions the task of maintaining a supervision over the work is properly one of the professional responsibilities of the organized bar. It is the same responsibility which the bar owes and is beginning to assume toward the legal aid organizations, and in Chapter XVIII we shall discuss in further detail the necessity and importance of this relationship.

In the future there is reason to hope that the defender plan may be extended into all our larger cities. We have had enough experience to dispel the bugaboos that were raised immediately after the establishment of the Los Angeles public defender in 1914. The notion that if we had a defender as well as a prosecutor the result would be a sort of stalemate in which each could frustrate the other has been exploded. In sharp contrast we find the district attorney and the defender working harmoniously together in sincere cooperation for the advancement of justice. It is no accident that most of the defender organizations have been established at the instance of judges and lawyers familiar with the criminal law, and the best proof of the essential merit of the defenders' work is that wherever it exists it is supported and commended by the district attorney's office and by the judges of the criminal courts.

For the smaller communities, where the volume of cases needing attention is too small to warrant the establishment of a definite office, the system of assigned counsel can be made entirely adequate. Such assigned counsel should be paid fair compensation and should be reimbursed for the necessary incidental expenses of the case. If the assignments were made to a committee of the local bar association (following in a general way the idea developed in Chicago), which would guarantee to make available for such assignments the services of properly qualified and well-trained lawyers of good professional repute, the evils which tend to creep into the assignment system could be avoided.

In the field of the criminal law there is enough available experience to demonstrate the ways and means whereby we can assure to

the man of limited means that equal protection of the laws to which he is entitled as a matter of right and by constitutional guaranty. All that is needed is some agency, available to him without cost, that can make the ample provisions of the law actively effective in his behalf. For this particular aspect of our problem the system of paid assigned counsel under bar association control in the smaller communities plus a public or private defender organization supervised by the bar association in the larger cities would furnish a complete, thorough, and efficient solution.

CHAPTER XII.—ORIGIN AND DEVELOPMENT OF LEGAL AID ORGANIZATIONS

In the preceding chapters we have considered several different types of remedial agencies that could be utilized in adapting our administration of justice to the needs of the modern community. We have seen that in various States experiments designed to improve the position of the poor before the law have been made and that most of these experiments have met with substantial success. While each remedial agency was constructed to meet some particular aspect of the general problem to which this article is addressed, we have advanced far enough to see that all these agencies, if combined and universally made a part of the administration of justice in this country, would provide definite and tried methods whereby the laws could be made actively effective in a large majority of the cases in which wage earners and all persons of limited means are interested. For the general run of claims under \$50, the small claims courts afford a speedy and inexpensive procedure; the conciliation tribunals are still in the experimental stage, but they may become the ideal counterparts of the small claims courts in the more sparsely populated districts. In the field of work accidents the industrial accident commissions with their auxiliary medical and inspection staffs unquestionably serve to bring justice to the injured workman and his dependents in at least nine cases out of ten through the method of administrative justice which is prompt and free from expense. Various administrative officials, operating as a part of the executive arm of the Government, give legal advice and assistance in matters of insurance, purchases of securities, small loans, and most important in the collection of wages. In criminal matters where the problem is to supply the services of attorneys to poor persons accused of crime the public defender plan together with the paid assigned counsel plan constitute a practical answer.

For the legal protection of the wage earner we have been trying to devise a series of agencies and methods that would remove the handicaps of delay, court costs, and the expense of counsel which have heretofore blocked his ready access to the courts of justice and that chain is now complete except for one vital link. Even while stressing the efficacy of these remedial agencies it has been necessary on several occasions to sound a note of caution. There are disputed industrial accident cases where the employee needs representation by counsel, and there are wage claims which a labor commissioner for one reason or another can not collect, so that the wage earner must seek the assistance of a lawyer. As to

the vast number of miscellaneous types of claims and cases within the field of the civil law—all cases of debts, contracts, and many claims beyond the jurisdiction of the small claims courts, all accidents not within the scope of the compensation acts, all domestic relations difficulties such as divorce, judicial separation, custody and guardianship of minors, partnership disputes, bankruptcy, claims growing out of insurance, real estate titles and mortgages, the administration of the estates of deceased persons, disputes concerning the ownership, conversion, or loss of personal property—the only remedy that is available is through litigation in the courts and for that litigation the services of an attorney are indispensable. Add to this the need for the services of an attorney in drawing contracts and other documents and in advising clients as to their legal rights and what course of action they should pursue, and it is apparent that to complete our plan for equalizing the practical administration of the laws under modern conditions there must be provided some definite arrangement whereby the services of attorneys may be available to wage earners and others who by reason of inadequate financial resources are unable to secure the services of counsel at their own expense.

Our experience in America indicates quite conclusively that the final agency needed to round out and supplement the services of all the others is to be found in what is called the legal aid organization. In the structure or program that we are trying to piece together by drawing on the sum total of all our experience in order to present a complete plan whereby the administration of justice may be brought abreast of the needs and demands of our existing industrial urban society, it is clear that the heaviest load, the most extended responsibility, and in a sense the final responsibility must be borne by these legal aid organizations. The part assigned to them is so important that the remaining seven chapters will be devoted to a critical analysis of their work and possibilities for development and to a narration of their origin and growth up to the present time.

The conditions that operated to bring about the establishment of the first legal aid society were precisely the same as those which caused the maladjustments in the administration of justice itself, and which were described in the opening pages of this article. In short, they were not legal causes per se but the rapid social and economic changes that transfigured the whole tenor and complexion of American life. Large numbers of immigrants, finding that the free lands suitable for agriculture were largely appropriated, remained in the cities and swelled the fast-growing ranks of the wage earners so that the populations of our industrial and commercial centers grew by leaps and bounds. In 1875 New York became a city of a million inhabitants and it is not a mere coincidence that the first legal aid organization came into being in New York in 1876.

In that year a group of lawyers and laymen who were especially interested in German immigrants, realizing the frauds and impositions of which immigrants were the victims and which could be redressed only through legal action, appointed a special committee to study the situation, and from the committee arose the suggestion for the establishment of a regular association to handle the problems.

Officers were secured and a salaried attorney installed who devoted a portion of his time to the work. The initial year showed 212 cases handled, approximately \$1,000 collected for clients, and an expense of \$1,000. The organization was incorporated on March 8, 1876, a group of 12 directors chosen, and the first office was located at 39 Nassau Street. The first year closed with a deficit of \$250, which was made good by a contribution from the German society. This condition of a deficit continued from year to year for the first 10 years and was annually defrayed by the German society. At the end of these first 10 years the organization had cared for 23,051 applications and had recovered \$105,729 for its clients. More than half of these collections were for unpaid wages.

This New York organization was efficient and businesslike, keeping accurate records of its work and its finances, which is especially fortunate because this office was destined to be the prototype of most of the legal aid organizations subsequently established. But during these first 10 years it was not and did not pretend to be a legal aid organization in the modern meaning of that phrase because it was not designed to offer legal assistance to all persons but only to German immigrants who needed help. It was supported not by the public generally but by the membership of the German society. It was limited in its scope and vision; nevertheless it contained an idea in embryo that was shortly to bear fruit.

In 1886 in Chicago the Protective Agency for Women and Girls came into existence, functioning in the specific field indicated by the name. In 1888 the Bureau of Justice, fostered by the Ethical Culture Society in Chicago, also made its appearance. The first of these organizations was intended for the protection of young girls from the seductions and debaucheries under the guise of proffered employment which had aroused the women of the city. The Bureau of Justice, however, had a much broader foundation. It undertook to supply legal services to all needy persons, regardless of race, nationality, or sex. In this respect it was the first true legal aid society.

In legal aid chronology 1890 is a noteworthy year because it marked the election of Arthur V. Briesen to the presidency of the New York society. For 25 years Mr. Briesen played the leading rôle in shaping the development of legal aid work not only in New York but throughout the country generally. As was said of him at the convention of legal aid organizations held at Cleveland in 1923, "Every institution is but the lengthened shadow of some great man." The institution of legal aid in the United States is but the lengthened shadow of Arthur V. Briesen." With his advent the work in New York was broadened to care not merely for the immigrant but for any man, whoever he might be, who, because of his poverty, was in danger of a denial of justice. Despite a certain amount of criticism and a good deal of misunderstanding as to the true nature of its work the society forged steadily ahead, weathered a succession of financial crises, and every year increased its reputation among the poor of the city for its honesty and integrity in caring for the cases entrusted to it.

In 1894 Jersey City began the work in a modest way. There was no definite organization. It is interesting to note how slowly the

idea spread at first. By the end of the nineteenth century there were only three cities in which legal aid work was done. In 1899 only 10,424 cases were handled. But where it had taken root the work was not to be dislodged, and in 1899 it was found necessary for the New York society to open three branches—a seamen's branch, a branch in the university settlement, which later became the East Side branch, and a women's branch, which later became the uptown branch. The significant feature during this first period was the growth of the idea from a narrow proprietary type of work to a broad conception of rendering general legal assistance to all deserving persons.

The second period of growth runs from 1900 to 1909, inclusive. It was an era of steady expansion. More people came to realize the need for some such remedy; other cities took up the work—Boston in 1900, Newark in 1901, the New York labor secretariat in 1901, Philadelphia in 1902, New Rochelle in 1902, the Educational Alliance of New York in 1902. In 1904 Atlanta, Cleveland, and Denver fell into line. In 1905 New York opened its Harlem branch, and in 1906 its Brooklyn branch. In 1907 came Cincinnati, in 1908 Pittsburgh, and in 1909 Detroit. It will be noted from this list of cities that during this second period the growth was almost entirely in the East. In Atlanta the work was discontinued and remained in abeyance for nearly 20 years.

Of these new organizations, Boston, Philadelphia, Cleveland, Cincinnati, and Pittsburgh were based on the New York type and were incorporated as private philanthropic societies. In Boston the bar took a leading part in organizing the society. The Newark society was called "The New Jersey Legal Aid Society," but its work was limited to Newark. The Denver organization, started by the local law school, was so successful and received so many cases that there were not sufficient funds to operate it, and it was forced to close its doors. The Educational Alliance is a specialized organization working in the vast Jewish population of New York, particularly among the immigrants.

In 1905 the two organizations in Chicago united to form the present strong Chicago Legal Aid Society. New York in 1906 tried to start a criminal branch, but the work was discontinued because of lack of funds. This gave legal aid work a decided turn away from the criminal field, because other organizations in copying New York also limited their attention to civil work. The Detroit bureau is important because there for the first time the organized bar assumed responsibility for maintaining the work as a part of its professional responsibilities.

The third period was from 1910 to 1913. It was marked by growth in the Middle West and a strengthening of the group in the East. The outstanding development was the establishment of the first municipal bureau in Kansas City, Mo., in 1910. All the other societies had been established and supported either by bar associations, charities, or the general public in the form of philanthropic corporations. All were private organizations, but the legal aid bureau of the department of public welfare in Kansas City was supported by the municipal treasury. In 1912 St. Louis, Akron, and St. Paul commenced organizations in their respective communities,

and they were followed in 1913 by Duluth, Minneapolis, and Louisville. In the eastern field Baltimore and Rochester were added in 1911. In the same year came the New York National Desertion Bureau. In 1912 a society was started in Buffalo and another in Colorado Springs. In 1913 there were efforts to start legal aid work in the South, resulting in progress in New Orleans and in Birmingham. Also in 1913 began the Harvard Legal Aid Bureau (conducted by students at the Harvard Law School), and in Minneapolis a cooperative arrangement was effected with the law school of the University of Minnesota, providing a sort of legal clinic for the instruction of law students. This period also saw the beginning of a national legal aid body, when plans for the National Alliance of Legal Aid Societies were inaugurated at Pittsburgh in 1911. This central organization and its subsequent development are discussed in Chapter XIII.

The National Desertion Bureau is an example of specialized legal aid work in the one field of domestic relations. It deals primarily with cases of desertion and abandonment. During this third period the prevailing type of organization changed. During the first two eras the privately incorporated society type predominated; but in this third stage 8 of the 14 new organizations were established as bureaus or departments of general charity organizations, such as the united, federated, and associated charities. Even more significant was the development of the municipal type of organization. Here, for the first time, we find the government of a modern city establishing a law office to which needy citizens may apply for free legal advice and assistance. This municipal experiment in Kansas City was successful and it exerted a marked influence on the work in other cities.

During the fourth period, from 1913 to 1917, the work entered a stage of rapid development that was checked only by the outbreak of the World War. The territorial expansion continued until the Pacific coast was reached. The public defenders began to make their appearance. The number of organizations increased from 28 in 1913 to 41 in 1917. The municipal type of bureau was copied in a number of cities and the work as a whole advanced by leaps and bounds. Keeping pace with the enlarging work was a steady evolution of the fundamental concepts underlying and shaping the philosophy of the work. Whereas legal aid had started as a limited, proprietary sort of organization, it had been developed into a definite legal charity, at the service of all meritorious applicants, and the growth of municipal bureaus offered the first suggestion that legal aid work might be something more than a charity, that under modern conditions it might indeed come to be regarded as an essential part in the public administration of justice.

In 1914, as we have seen in the preceding chapter, the first public defender's office was established in Los Angeles. The mere fact that this was a public and not a private office tended to emphasize again the object lesson afforded by Kansas City, and in the following year the legal aid society in St. Louis was taken over by the municipal government, Dayton established a municipal bureau, and the newly created bureau of public welfare in Dallas started a legal aid bureau as one of its welfare activities. Likewise, in 1915 public defender offices were established in Omaha, Portland, Oreg., and in

Los Angeles (the police court public defender). In 1916 the private legal aid society in Hartford was taken over by the city, and a municipal bureau was created in Omaha. Thus in two years eight public legal aid offices came into being, and in a real sense this phenomenon marks a turning point in legal aid history. The full significance of this trend toward public control of legal aid work can not be discussed here because it would require us to anticipate our story, but in Chapter XV, wherein the various types of legal aid organizations are discussed and compared, we shall recur to it.

Following the novel experiment at Harvard of a legal aid bureau conducted by law students, the George Washington and the Yale law schools undertook a certain amount of legal aid work in an informal way. Also in 1916 legal aid offices were opened in San Francisco, San Diego, Milwaukee, Richmond, Nashville, and Columbus, and in Plainfield a legal aid committee was organized. During this year plans for a defender in criminal cases were under way in New York, which were consummated by the establishment of the voluntary defender's committee early in 1917. Then came the war and the development of legal aid work was brought to an abrupt stop.

During 1917, 1918, and 1919 no new societies or bureaus were formed and some of the weaker and more recently organized offices had to be given up. Summarizing this interval, the attorney for the New York Legal Aid Society stated:

Legal aid work has been a young man's work, and the war inevitably disrupted its personnel, and, by the same token, disrupted the organization of the National Alliance. Most of the men either went into military service or were commandeered for various forms of Government service, and those who remained technically in the legal aid offices were so swamped with the additional war work which was assumed that they had no time or strength for anything else.

A renewed impetus was given to the work in the fall of 1919, when the Carnegie Foundation for the Advancement of Teaching published as its thirteenth bulletin a volume entitled "Justice and the Poor," which was primarily a treatise on legal aid. The main thesis of this publication was that legal aid work must be considered an integral part of the administration of justice in the modern community because unless legal assistance were provided to poor persons unable to pay for such help the inevitable result would be substantial and widespread denial of justice.

In 1920 the onward march of legal aid work was resumed. The Rhode Island Bar Association established a strong society in Providence. The society in Newark was reorganized under the auspices of the bar. In Philadelphia the work which since 1902 had been conducted by a privately incorporated society was taken over and greatly enlarged by the municipal government.

In 1921 the Grand Rapids Social Welfare Association opened its legal aid bureau, patterned to a large extent after the organization in Chicago which, primarily for financial reasons, had become a part of the United Charities of Chicago. As a result of legislation fostered by the Connecticut Bar Association committee on legal aid work, public defender offices were provided for Bridgeport, Hartford, and New Haven. As a reflection of the fact that legal aid had now become a national, as distinguished from a local or sectional movement, we find that while this legislation was taking effect in

Connecticut a similar act was passed in California, establishing a public defender in San Francisco.

The most interesting event in this year of great activity was the creation of an entirely new plan for legal aid work, especially adapted to work in the smaller cities, as the result of action by the Illinois Bar Association, which undertook to work out with local bar associations in the State an informal series of legal aid committees to which the social service agencies in their respective communities could refer persons needing legal advice and assistance. Up to this time the services of legal aid organizations had been confined almost exclusively to the larger cities in the United States. The so-called Illinois plan indicated for the first time a simple and practicable machinery whereby the benefits of legal aid might also be extended to the smaller cities and towns where the volume of the work would be insufficient to warrant the establishment of a formally organized society or bureau.

In 1922 municipal legal aid bureaus were begun in Bridgeport and Camden, and the Louisville Legal Aid Society was reorganized at the instance of the local bar association. Likewise in 1922 the several legal aid organizations of the country resumed their custom of meeting together. Their last joint convention had been in 1916, the meeting scheduled for 1918 was necessarily canceled, but in 1922 they came together again at the invitation of the Philadelphia Municipal Legal Aid Bureau and for the first time since the war reviewed their situation and, in effect, took account of stock.

From the records made available by this Philadelphia legal aid convention it appeared that 36 organizations had survived the war and that in 12 other cities new offices had been established or were in process of establishment. The scattered threads were gathered together at this meeting and definite plans for the future were resolved on.

This brings us to the most recent period in legal aid development. Whereas in 1922 there were approximately 48 legal aid organizations, by 1925 this number had increased to 72. Many of these added societies, bureaus, and committees are so recent that it is difficult to distinguish between organizations that are already entitled to be regarded as definitely established, informal groups that represent embryonic organizations, and committees that have the matter in hand and are undertaking to create legal aid offices of one type or another. The full list of existing legal aid offices, of whatever form or type, in each city, is published herein as Appendix G. During these last two years the following appear to be the more important developments. In 1923 the work was established in Albany and Indianapolis, the beginnings of bar association activity in this field were made in Washington and Worcester, and in Pontiac and Lansing, Mich., interested groups began to plan for the formation of legal aid committees. In 1924 the bar associations in Denver and Reading undertook to provide legal aid machinery, and in Dallas the work was revived under the same auspices. In Lexington the social agencies and in Des Moines the Federation of Women's Clubs have sponsored the creation of legal aid entities.

The history of the development of legal aid work represents an idea that originated in 1876 and germinated very slowly during the

first 25 years. The community was not aware of the difficulties of the poor man who needed legal protection. The situation was most manifest in the largest cities and the legal aid idea naturally first took root in our two largest cities—New York and Chicago. From 1900 to 1917 we find the idea extending at an accelerating pace, first into the next largest cities such as Philadelphia, Boston, and Cleveland, and finally reaching across the continent to Los Angeles and San Francisco. During the war the movement was checked and suffered a momentary setback, but by 1920 it was well under way again; it has regained its momentum and the current of events flows steadily ahead under the intelligent guidance and leadership of the National Association of Legal Aid Organizations.

Since each legal aid society or bureau was formed by a local group to meet a local need, it was perhaps inevitable that they should have come very slowly to any realization of the fact that they were all engaged in a common enterprise. The first tentative step toward the formation of a national or Federal body was taken in 1911, but not until 1923 was there a strong enough conscious sense of solidarity to make possible the creation of a true national association. Legal aid work has outgrown the period of its infancy and is entering the stage of its maturity. In any further extension of the work and in maintaining the efficiency of the existing organizations a leading responsibility devolves on this new national association. To a large degree the future of legal aid work in this country has been entrusted to its care. This important central body is so new that very little has been published about it and consequently the general public knows little concerning it. It seems worth while, therefore, to devote the next chapter to a reasonably thorough statement of its history, the scope of its functions, and the work on which it is engaged.

CHAPTER XIII.—NATIONAL ASSOCIATION OF LEGAL AID ORGANIZATIONS

The origin of the present national association is to be found in the National Alliance of Legal Aid Societies. In 1911, Mark W. Acheson, jr., president of the Pittsburgh Legal Aid Society, invited the societies then in existence to meet in Pittsburgh for an informal discussion. Delegates from 14 organizations attended and agreed upon the advisability of some sort of central body. A committee was appointed to draw up a form of constitution. At a second convention, held in New York in 1912 and attended by representatives from 12 societies and bureaus, the committee's report was accepted and there was formed the National Alliance of Legal Aid Societies. The purpose of this alliance, as stated in section 2 of its constitution, was:

Its object and purpose shall be to give publicity to the work of the legal aid societies of the United States, to bring about cooperation and increase efficiency in their work, and encourage the formation of new societies.

Mr. Arthur Briesen, president of the New York Legal Aid Society, was unanimously elected president of the alliance and its valuable, though limited, accomplishments were almost entirely due to his personal enthusiasm and zeal. The organization had no real power vested in it and it was fatally handicapped by lack of funds. The

constituent societies paid no dues, the central committee, which had power to fix dues not in excess of \$25 per annum, never authorized the collection of any dues; indeed, the constitution itself made no provision for the office of treasurer. The expenses which necessarily were incurred were paid by the president out of his own pocket.

The national alliance did little more than serve as the vehicle through which two subsequent conventions were called, the first at Chicago in 1914 and the second at Cincinnati in 1916. These gatherings of legal aid workers served to build up an esprit de corps, they facilitated the exchange of cases between offices in different parts of the country, and through papers read and discussion they afforded a much needed forum and clearing house for the presentation and exchange of ideas about the work, its technique, and its true function. The influence of a man like Mr. Briesen must have been very great in encouraging and inspiring the legal aid attorneys, many of whom were poorly paid and inadequately supported in their own communities. The whole weight of his forceful personality was thrown in the direction of making legal aid a more useful servant of the community, for his genius enabled him to see more clearly than anyone else the ultimate goal toward which all legal aid work was developing. His vision is revealed by a paragraph in an informal letter that he sent to the Cincinnati convention to regret and explain his absence on account of his advancing years:

That legal aid societies, since the national alliance was born at Pittsburgh, have increased in number and efficiency is apparent. That credit is due to those who brought about these gratifying results need not be stated. Hundreds of thousands of poor and helpless men and women, to say nothing of poor and helpless children, have reason to bless these institutions. I believe that very few, however, will now think of their work as a blessing, for they take it to be one of the institutions of the country, one of the things that makes this country great and glorious. By this time they accept this gift as a natural right which, indeed, it is, marking an important step forward in civilization.

After 1916 the national alliance became quiescent. It had never been a controlling factor in guiding the development of the work, it had neither funds nor power; so far as providing the leadership which the legal aid movement needed, this loose type of association was impotent. In 1919 the bulletin entitled "Justice and the Poor," already referred to, said:

Legal aid work has not yet passed out of the stage of localized organization. We have already seen that the societies were started in the various cities by local groups acting independently. If there was no such group, no society was started, and if the group failed or dispersed the society went with it. There never has been, as there is not now, any strong central agency in a position of leadership. There is no centralized responsibility or authority. The legal aid movement has not yet become a coordinated national undertaking.

At the Philadelphia convention of legal aid organizations, held in 1922, the formation of a new national body was the main topic of discussion. In the course of the debates it was said "the national alliance is like a federal government without power of taxation." "There is an imperative demand for such elementary things as standardized records of work, conventionalized classifications of the nature, source, and disposition of cases and for uniformity of financial accounting." "There is great need for a central clearing house to provide for the proper reference of cases." "There is no

definite head, no leadership in the legal aid movement." The upshot of this discussion was a unanimous resolution appointing a special committee to bring about a new national organization. The report of the Philadelphia convention summarized the feelings of the delegates of the local societies by saying "they are determined to integrate themselves into a national federation. They are no longer contented with the loose and impotent association which the national alliance, by virtue of its ineffective structure, has necessarily been. They propose to recast the form of their national organization so that as a representative legislative and executive body, it may provide a genuine leadership in extending and improving the work."

The special committee, after a series of meetings, decided that it was impracticable to make over the national alliance into a satisfactory central body, because what was needed was a real delegation of power by the individual local societies and bureaus to a central organization. This could be accomplished only with the consent of the local societies. After the draft plan for the new national association had been formulated, printed, and distributed, a constitutional convention was held at Cleveland on June 7 and 8, 1923. Duly accredited delegates were present representing 23 legal aid societies and bureaus and including all the larger and stronger organizations in the United States. The special committee submitted its plan and stated:

We have considered that, in effect, we had been given a mandate by those competent to speak, to draft a form of framework for a national structure.

In this report we do not debate or argue the need for a strong national organization. The lack of it in the past has retarded legal aid development. That is a fact known to everyone. The need of it, if legal aid work is to develop in the future, is also a fact known to everyone.

We have bent our energies to devising a plan of federation which, while still leaving the local societies and bureaus free and independent, would also vest in the central or national body enough power to be able to carry on its particular work.

After general debate and some perfecting amendments, the constitution was unanimously adopted and the constituent organizations became members by signing the constitution, a copy of which is published herein as Appendix H. The Hon. William Howard Taft, Chief Justice of the United States, was elected honorary president of the new organization, the other officers chosen being a president, secretary, treasurer, and an executive committee of seven persons intentionally selected to represent different types of legal aid offices operating in various sections of the country. The following letter, written by Hon. Elihu Root to the special committee, was read at the convention:

I have received your letter of May 1, telling me of the proposed June meeting of delegates from legal aid organizations and the plan to form a national association.

Will you please count me as being heartily in favor of that plan? It becomes every year more evident that something is wanted to establish a contact between the system of administering justice, of which we are so proud, and the very people who need it most. The people who know how can easily get a very good brand of justice, but the people who don't know how have little reason to suppose that there is any justice here. I am afraid they are getting a very bad idea of our institutions. It is becoming evident also that this subject must be dealt with, in the first instance at least, by private enterprise. Methods may be evolved which can ultimately be applied by government, but those methods can not be evolved out of anybody's inner conscience,

or out of any legislative committee. They must be worked out experimentally and that must be done by organized private enterprise. The present organization in the form of a national alliance of legal aid societies is plainly inadequate. We need a national body which can act itself in accordance with the authority derived from the local societies. I think that is plainly the next step toward promoting genuine legal aid, and especially toward preventing the plunder of the poor under the false pretense of legal aid.

The purposes of the new national association as formally set forth in section 2 of Article I of the constitution are :

The objects and purposes of this association shall be to promote and develop legal aid work, to encourage the formation of new legal aid organizations wherever they may be needed, to provide a central body with defined duties and powers for the guidance of legal aid work, and to cooperate with the judiciary, the bar, and all organizations interested in the administration of justice.

The last clause of this section represents a thought that was entirely lacking in the purpose clause of the old national alliance, and which, as time goes on, is likely to be the most important function of the present national body. The legal aid organizations have a direct contribution to make to the better administration of justice in the United States. They realized that if they were to be heard they must speak with a single voice and therefore they ceded to their national body "supervision over legal aid work in its national aspects, over the relationship between legal aid organizations and all other national organizations."

Before discussing the important results already accomplished under this power we may digress for a moment to note that the power to "promulgate standards as to the conduct of legal aid work" was acted on immediately. Standard classifications as to all controlling records were adopted at the Cleveland convention as the first official action of the new body. Brief discussion of their significance will be found in a later chapter; their pertinence here is that they afford an excellent practical illustration of the efficiency, thoroughness, and zeal with which the new national association embarked upon its career.

The national association carries on its activities through a salaried secretary who devotes his entire time to the work and through a series of standing committees to each of which is entrusted one major division of the legal aid field. These committees maintain continuing studies of the subjects committed to their charge, prepare annual reports which are printed and distributed to all member organizations and which form the basis for the discussions at the annual conventions. Following the Cleveland convention in 1923 the next general meeting was held at Minneapolis in 1924. The executive committee holds a midwinter meeting each year in the rooms of the Association of the Bar of the City of New York.

The activities of the standing committees are adequately suggested by their names. The committee on records and the committee on financial accounting labor to bring the technique of all legal aid organizations up to the approved standard. The committees on small loans, on domestic relations courts, on the public defender, and on small claims courts, conciliation, and arbitration study the remedial agencies, most of which have been discussed in earlier chapters, in order to make certain that the legal aid attorneys are prepared to step in and assist needy persons at the point where

these remedial agencies, by virtue of the limitations of their jurisdiction, are obliged to stop.

The separate legal aid organizations having been integrated into a national body are now able to cooperate with other national bodies that are interested in the improvement of the administration of justice and especially as it relates to people of little or no means. In Chapter IX we have already noted the object of the committee on relations with the International Association of Industrial Accident Boards and Commissions, and in Chapter X that of the committee on relations with the Association of Governmental Labor Officials of the United States and Canada. In Chapter XVII we shall have occasion to speak of the committee on relations with social agencies and in Chapter XVIII of the committee on relations with the bar.

Two of the further activities of the national association may be considered here. To gather and disseminate information concerning its own activities and concerning the progress of legal aid work in general there is a special committee on publicity. Beyond its routine work of publishing the reports of the standing committees and of the convention proceedings it secures articles of special interest to legal aid workers and distributes them to its mailing list. The official organ of the committee is the *Legal Aid Review*, published by the New York Legal Aid Society. A recent undertaking has been the preparation of a series of articles on legal subjects for release through the Foreign Language Information Service. These articles have been widely used by the foreign language press of the country and through them the meaning and availability of legal aid offices has been brought directly home to our immigrant population.

Finally, the National Association of Legal Aid Organizations initiated a movement for international cooperation in legal aid work which is so important that it may justly be regarded as the crowning achievement in the association's short but already eventful life. The first legal aid society, as was pointed out in Chapter XII, was formed for the exclusive purpose of aiding immigrants. While legal aid work soon broadened its scope, nevertheless it has always been a bulwark for the protection of the legal rights of immigrants. In 1923, of the 29,000 persons assisted by the New York Legal Aid Society, 13,000 had been born in foreign countries and 7,000 were still aliens. In nationality these immigrants represented nearly every country in the world. The legal aid organizations have naturally found themselves confronted with large numbers of cases in which justice could be secured only through some legal action in foreign countries. They had established contacts with a few legal aid organizations in Europe and this suggested to the national association that if all the legal aid and similar organizations in the world could be ascertained some arrangements for international cooperation would become possible. Through one of its vice presidents, who enlisted the aid of the Norwegian delegate to the Assembly of the League of Nations, the association was able to file a memorandum pointing out this need, and in 1923 the assembly of the league by resolution decided:

(a) To place on the agenda of the fifth assembly the question referred to in the memorandum A. 119, 1923, V., regarding international arrangements for legal assistance to the poor.

(b) To invite the secretary general to prepare a report in the meantime and to make such inquiries, under the authority of the council, as may be found desirable, without expenditure of league funds.

The Carnegie Corporation of New York provided the moderate sum needed for the purpose and the council of the league, on March 13, 1924, authorized the secretary general to convene a small committee of experts from various countries who could advise the secretary general and submit a plan for further action.

The committee was constituted as follows:

- France: M. Lucien Baudelot, advocate at the court of appeal at Paris.
- England: Sir T. Willes Chitty, senior master of the supreme court.
- Norway: Prof. Mikael Lie, professor of international law at the University of Christiania.
- Italy: Prof. Silvio Longhi, first president of court of appeal.
- Poland: Prof. S. Nagorski, professor of civil law at the University of Warsaw, member of the Polish commission on codification.
- Spain: Prof. Adolfo Posada, professor of public law at the University of Madrid, ex-director of the Institute of Social Reform.
- United States: Mr. Reginald Heber Smith, chairman of the American Bar Association committee on legal aid work, secretary of the United States national committee on legal aid work.
- Japan: Prof. Kenzo Takayanagi, professor of law at the University of Tokio.
- International Labor Office: Dr. L. Varley, technical adviser on migration to the International Labor Office.

The committee met from July 30 to August 2, 1924, inclusive. Much valuable information was supplied by the members both in the form of written memoranda and in oral statements at the meeting. Communications were also received from the Austrian Government and, through the German consulate at Geneva, from the committee of the German Bar Association.

After the committee had adjourned, the secretary general filed an admirable report with the assembly. This report has been reprinted in full and is available in the January, 1925, issue of the *Legal Aid Review*. The recommendations offered by the committee were approved by the secretary general and transmitted to the assembly which, after making minor alterations, passed the following resolution on September 20, 1924:

LEGAL ASSISTANCE FOR THE POOR

Resolution adopted (on the report of the first committee) by the assembly at its meeting held on Saturday, September 20, 1924 (morning)

The assembly decides:

1. To invite the secretariat to prepare a list of the agencies, both public and private, which have been established in each country for the purpose of giving to poor persons legal assistance in connection with litigation in the courts or free legal advice and consultation; and of international organizations that are interested in providing or securing legal assistance to poor persons.

This list shall be printed and distributed to the various governments and be available for the agencies named therein and for other interested institutions.

This list shall be revised by the secretariat from time to time in order that it may mention agencies that may hereafter be established or abolished.

2. To invite the secretariat to collect the various treaties, laws, and other provisions regulating legal assistance to poor persons in the various nations and between various nations.

Such treaties, laws, and other provisions or summaries thereof shall be published and distributed to the various governments and be made available

to the agencies mentioned in the list of legal aid associations and to other interested institutions.

3. To invite each government to nominate an authority or other duly qualified person who will answer inquiries from authorities or other duly qualified persons in other countries, with regard to the facilities afforded in the country applied to for giving legal advice and assistance in litigation to poor persons in other countries.

The list of authorities or persons so designated by the various governments shall be published by the secretariat from time to time.

4. To request the secretary general of the League of Nations to ask the various States, including States not members of the league, whether they would be disposed to become parties to a convention dealing with free legal aid for the poor on the basis of the principles formulated in articles 20 to 23 of The Hague convention of July 17, 1905, and whether possibly they would desire to propose any modification of such principles.

5. To request the secretary general to transmit to the governments the report A. 34, 1924, V., concerning international arrangements for legal assistance for the poor.

Pursuant to this authority, the legal section of the secretariat of the league has begun its work. Within the space of two years it is hoped that there may be made available a complete reference list of all the legal aid agencies in the world, together with a digest of the laws that are of special concern in the cases that are most likely to arise. Thereafter it will be feasible for genuine international cooperation to begin. To-day, when a case presenting an international aspect arises, little, if anything, can be done. In future it may be possible for the long arm of organized legal aid work to reach out across the ocean and in cooperation with sister agencies abroad to secure legal protection for the rights of immigrants in any country. After this brief glance at the future progress that may come to pass in the international field, it is time to return to an examination and appraisal of what the American legal aid organizations have been able to accomplish in their own domestic field of work.

CHAPTER XIV.—WORK OF LEGAL AID ORGANIZATIONS

The final test of the merit of any organization that exists to render a public or community service must depend on the amount of work it can perform and the degree of efficiency it is able to attain. It is possible to apply a quantitative test to the legal aid organizations because most of them have kept satisfactory records as to the major features of their work, how many clients they served, how much they collected for clients, and what the cost of their own operation amounted to. In Appendix C these figures are set out in detail. For our present purpose a condensed table will serve as an accurate reflection of the extraordinary growth of the work. When we note that the total number of cases in 1900 was only 20,896 and that by 1923 it had increased to 150,234 cases, then we realize that while legal aid work has an unbroken history running back for nearly 50 years, yet the great bulk of its achievement lies within the last decade, during which period the movement became truly national in scope. In other words, the legal aid organizations taken as a whole have passed through their experimental stage, but they are still young; they have not assumed their final form because they are still in process of development. They are not yet at the zenith of their powers, they contain tremendous latent possibilities for

effective service in connection with the administration of justice, but they are only at the threshold of the passageway which leads to a full realization of these opportunities.

GROWTH OF LEGAL AID WORK IN THE UNITED STATES, BY YEARS

Year	Number of organizations	Number of cases ¹	Amounts collected for clients ¹	Operating expenses ¹
1876...	1	212	\$1,000	\$1,060
1885...	1	3,802	17,711	2,870
1890...	3	9,316	47,680	11,953
1895...	4	16,123	66,341	14,812
1900...	5	20,896	101,970	21,669
1905...	12	33,352	80,020	42,734
1910...	15	50,253	160,195	75,264
1912...	21	77,700	215,143	119,992
1914...	32	109,289	272,833	159,863
1916...	41	116,325	345,435	181,165
1917...	41	108,594	266,373	153,559
1918...	41	99,192	289,859	167,307
1919...	41	102,289	367,813	195,595
1920...	41	96,034	389,535	226,079
1921...	41	111,404	456,160	282,359
1922...	47	130,585	499,684	328,651
1923...	61	150,234	498,846	331,326
1924...	72	-----	-----	-----

¹ Figures are for those organizations which reported.

The organizations have conducted their work so quietly that their aggregate accomplishment must be something of a surprise to any one who reads of their work for the first time. Not including the figures for 1924, which are not available at this writing, the legal aid organizations have received applications for assistance in 1,924,425 cases; through their efforts they have collected for their clients \$6,355,797 and in the prosecution of their work they have expended \$3,256,518. The existing organizations now serve a territory in which 25,000,000 persons live; each year they assist more than 125,000 clients; they collect approximately half a million dollars in amounts that average little more than \$15 per case. The maintenance of legal aid work now costs nearly a third of a million dollars a year, which means that they are able to extend legal advice to a client and to render whatever legal assistance he requires at an average cost of about \$2.50 per case.

The foregoing may be regarded as minimum figures because records for some of the newer and less strongly established offices are not available. If we measure by number of clients, the legal aid organizations of the United States must conduct the largest law practice in the world.

It would be interesting if we could analyze this mass of legal matters to ascertain the various kinds of cases of which it is composed. It is not yet possible to make such an analysis accurately enough as to yield reliable statistics applicable to the legal aid organizations as a whole. While most of the stronger societies and bureaus keep records showing the nature of their cases, how they were referred to the legal aid office, and what they were able to accomplish in these cases, it is virtually impossible to combine these figures because each organization has had its own system, its own terminology, and its own classifications, which are not comparable

with those of other organizations. The national association has taken action designed to put an end to this confusion, but it always takes some time to overcome habit and inertia, and it may be several years before all the organizations are brought into strict compliance with the uniform system of records adopted in 1923 to be effective beginning in 1924.

In the absence of definite figures we can only generalize, but it is the clear consensus of opinion of those engaged in the work that the largest single item consists of wage collections, which make up at least one quarter of the total volume of cases. Next in relative importance are matters relating to domestic relations, such as desertion, nonsupport, custody of children, judicial separation (separate maintenance), and actions for divorce, which are relatively few in number because of a legal aid policy toward divorce that will be discussed later in this chapter. The third largest group of cases consists of the prosecution or defense of miscellaneous money claims and debts. Beyond this point no worth-while estimate can be made because of the tremendous variety of the cases which daily pour into the legal aid offices of the country. Some of the applicants need only legal advice as to their rights and probably about 10 per cent of the grist in the legal aid mill consists of giving miscellaneous advice and information, writing a letter, or drawing some simple paper.

In the conduct of their work the legal aid organizations have through experience learned certain lessons which have become incorporated into well-established principles for their guidance, and on the other hand, a number of questions remain unsettled because, although there has been an abundance of discussion, no clear agreement has been reached.

A legal aid society or bureau is a law office; its attorneys are engaged in the practice of law. They are subject to the same rules of professional conduct and to the same canons of ethics as any other attorneys. But, in addition to these traditional precepts, the legal aid organizations have found it necessary to establish certain other rules.

The first of these rules is a definite principle, universally applied, that no person who is able to employ a private attorney is entitled to their assistance. The legal aid organizations are not in competition with the bar, and they are scrupulously careful in this regard. Furthermore, their funds, whether received from the public treasury or from private subscriptions, are given to them in trust to carry out a specific purpose which, as it is commonly expressed in the constitutions of legal aid societies, is "to render legal aid and assistance, gratuitously if necessary, to all persons who may appear worthy thereof, and who, from poverty, are unable to procure it."

While the principle is clear enough, its application to borderline cases is sometimes difficult. There are comparatively few doubtful cases, but the legal aid attorneys have been at great pains to try to fix the exact dividing line. All persons when they come to a legal aid office are first considered as "applicants." If they satisfy the attorney that they are without sufficient funds to retain their own attorneys, then they are accepted as "clients," and having

been accepted the relationship of attorney and client continues to the end of the case.

Twenty organizations allow the attorney who receives the application to exercise his discretion as to whether or not the applicant is a legal aid client. Such discretionary control has been found better than any rigid tests. The National Association's committee on relations with the bar, in its report for 1924, says in this regard:

A further argument against all of these tests would be that while they may well be put in operation, there is always a way to beat them. If a man who does the work is the wrong kind of a man, no rules will keep him in place. If he is the right kind of man, you will have little need for rules.

A \$500 wage claim presented by a healthy unmarried man would, it may be assumed, be at once rejected by any legal aid society. But how about an attempt to cheat a widowed charwoman who is the sole support of her nine young children out of a \$500 equity in her cottage? Is that a legal aid case?

A close working understanding between the legal aid committee of the local bar association and the board of directors of the legal aid society, with the legal aid attorney serving as the link between the two, will be essential if any elastic definition is to be applied satisfactorily. Would not such an understanding be speedily arrived at if—

1. The legal aid attorney should submit to the bar association committee any border-line cases whose status he considers to be doubtful; and
2. The bar association committee should visit the bureau at intervals, examine the records, question the attorney, and satisfy itself as to the character of cases accepted, making such recommendation as it deems necessary.

The foregoing suggestion is undoubtedly as good a solution as can be had. The legal aid attorney's discretion is not left free and untrammelled but is subject to enough control to prevent abuse. If the bar at large thinks the legal aid office is accepting improper cases, the remedy lies in its own hands. Some organizations have already accepted the substance of this suggestion for their future guidance as the need may arise.

The earnest desire to avoid criticism from the bar has led a number of organizations to take a false step in the following situation. When an applicant is refused, either because he can pay a fee or because of the nature of his case, he invariably asks for the name of some reliable attorney to whom he may go. The organizations above referred to refused to answer this simple question, lest they be accused of playing favorites. The unfortunate result generally was that the ignorant applicant would fall into the hands of a "runner" and straightway be led to the office of some "shyster." The better practice to-day is to offer a list of names of reputable attorneys who have agreed in advance that they will accept such cases. Seventeen organizations use lists compiled by themselves, and six use lists compiled by the bar association. If any substantial number of cases are to be referred, the second plan is clearly the safer and should be used wherever the local bar association is willing to cooperate in this regard.

Whether or not legal aid organizations should accept divorce cases has long been a mooted point. Divorce is a serious step; to make it easy by making it cheap may result in baneful social consequences. And to refuse divorces in certain instances has equally bad social results. It might seem simple to adopt a rule to defend divorce cases but to refuse to institute them. But as the experienced attorney of the Buffalo Legal Aid Society has said:

It is a simple matter to bring to mind cases where a poor woman with several children has been deserted by a worthless husband who has given her all possible grounds for a divorce. When such a woman finds, as many of them do, some steady man who is willing, in return for the home life he wants, to give her his wages and help to bring up the children, we have an opportunity for a real, constructive piece of work. If a divorce is granted her, she can start life all over again and probably make her way. If the divorce is denied, she may very likely take the man in as a boarder and after a time bring into the world a group of illegitimate children.

There is in reality a dilemma which the committee on relations with the bar has summed up as follows:

It is argued that because of its public or quasi public position a legal aid society must take every case which comes to it, provided the client is one within the jurisdiction and the case is not prohibited by a general rule. It is further argued that a legal aid organization, being merely an instrument of the law, should not assume to determine the merit of such cases provided the facts are such as to warrant a divorce. It is said that the moral side of such questions is a matter for the individual client and not for the legal aid society to pass upon.

On the other side, it is argued that divorce is in the nature of an equitable proceeding, and that the moral standpoint of the applicant for a divorce must be taken into consideration. It is said that the break-up of a family is involved, a step is taken toward the break-up of society, and therefore society at large is involved in such a proceeding and is interested in whether, morally, the divorce should be granted or not.

It is a safe rule to lay down that while a legal aid organization refuses a divorce case at its peril, it also accepts such cases at its peril, and must tread the narrow path between denying justice to the poor, on the one hand, and encouraging unwarranted destruction of families on the other.

In actual practice 12 organizations do not accept divorce cases and 15 do under special circumstances. Unanimity of opinion on this point may never be attained, because the States themselves are far from being in any accord in the matter of their divorce laws. Public opinion is at odds on divorce and it is too much to expect the legal aid organizations to solve a social question that baffles everyone else.

Whether or not personal injury cases should be accepted has been, and still is, a warmly contested point. The problem arises in a peculiar way. A man may be utterly penniless, but if he is knocked down by a street car he has a claim that may be worth a thousand dollars against a solvent defendant. For many years lawyers have been willing to accept these cases on a contingent fee basis. Despite the fact that the contingent fee has given rise to a host of abuses and that many excellent lawyers look at it askance, it seems to have become a recognized method of arranging the fee in negligence cases and a contingent fee contract, which was originally deemed void at the common law, is now accorded legal recognition in most States. On this question, the committee on relations with the bar states:

As a general proposition, a legal aid organization has no right to contend with other lawyers for business.

As long, then, as lawyers can be found to take contingent fee cases, the legal aid organization ought to keep its hands off. If such cases are of any value at law, members of the bar will take them. If they are of no value, a legal aid organization can not make much headway.

When, however, we come to consider a small case of this sort, where there is undoubtedly a legal right to recover and where the amount involved is so small as not to warrant any action by a private attorney, even on a contingent basis, then the legal aid may properly proceed because, if it did not interfere, injustice would be done.

Wherever the law has acknowledged the propriety of contingent fee contracts, the committee's observations are applicable and they constitute as good a practical solution as can be afforded, and the rules of the great majority of the legal aid offices are in accord with this plan.

Other types of cases present difficulties, but the only group that is important enough to warrant attention here is that of complaints against attorneys, which the legal aid organizations are apt to receive because it is the poor and ignorant on whom unscrupulous lawyers prey and such persons naturally turn to a legal aid office for assistance. A rule to reject such cases has been adopted by a few societies but it is indefensible. These cases are of the utmost importance, not only to the wronged individual, but to the whole administration of justice. A legal aid attorney, in our opinion, is remiss in his duty unless he investigates the matter and, if the complaint appears justified, sees that it is properly presented to the grievance committee of the bar association or whatever other body is vested with jurisdiction over matters of professional misconduct.

The last important matter of policy concerning legal aid work that needs some exposition is the theory and practice of charging fees. In the purpose clause, quoted earlier, which is to be found in the constitutions of a number of the societies, the object of the work is stated to be "to render aid and assistance, gratuitously if necessary." This is a balanced phrase. When the client is unable to pay anything the service must be extended to him free of all charges; every legal aid organization subscribes to this principle, and no applicant is ever rejected on the ground that he can not pay a fee.

On the other hand, if the applicant can pay a nominal fee, some of the organizations do make a charge. One definite school of thought among legal aid workers strongly objects to any system of fees whatsoever. Their argument is that justice should be free, that legal aid service should be extended without any pecuniary reward, that the nature of legal aid work will be more clearly appreciated by the community and its dignity be enhanced if no charges for services rendered are imposed. This point of view represents an earnest conviction, it has the merit of simplicity, and it is based on an ideal that carries with it an undeniable appeal.

The countervailing argument is perhaps less idealistic but it is supported by strong practical considerations. It is urged with vigor that the system of charging fees, however small, tends to eliminate fictitious and groundless complaints, that when a client has paid a fee he has a stake in the matter and is less likely to drop it, that by the payment the relationship is lifted from the plane of charity to one of self-respect, and that these fees, although trifling in themselves, in the aggregate constitute a source of income that enables the organizations to do more work than their limited finances would otherwise enable them to perform. That there is practical validity behind this last argument is apparent from the following table showing fees collected by certain organizations in recent years.

AMOUNTS COLLECTED IN FEES AND COMMISSIONS BY LEGAL AID ORGANIZATIONS, BY YEARS

Year	New York, Legal Aid Society	Boston	Cleveland	Minneapolis	St. Louis	Providence	New York, Educational Alliance	Louisville	Grand Rapids	Rochester
1917	\$11,667	\$1,600	\$558	\$530						
1918	10,508	3,549	1,320	134						
1919	11,506	5,478	2,018	101	1340					
1920	12,341	6,295	2,804	100	140					
1921	13,927	5,972	1,886	61	140					
1922	14,812	6,997	1,591	97	140	\$124	\$2,768	\$240	\$32	\$185
1923	13,815	9,398	2,661	198	140	144	2,808	148	45	198
1924		10,066	2,963	161	140	200				
Total	89,070	49,355	15,801	1,432	1240	468	5,576	388	77	383

¹ Average.

The nature of the fees charged is shown by the following table. By "registration fee or retainer" is meant a payment by the applicant when he is accepted as a client and work in his behalf is undertaken. A "fee or commission on money collected" signifies that if the society through its work is able to collect for a client something more than a nominal sum, then it may make a charge based on a percentage of the sum recovered. The percentage figure is a maximum figure which may not be exceeded, but which may in any case be reduced. By "fees or commissions in special cases" is meant the imposition of a charge where the society's services have produced some valuable result other than a collection of money for the client.

FEES AND COMMISSIONS CHARGED BY LEGAL AID ORGANIZATIONS, BY CITIES

City	Registration fee or retainer	Fee or commission on money collected over a certain sum	Fees or commissions in special cases
Albany		Minimum \$0.50, maximum 5 per cent.	
Boston	50 cents or \$1.	10 per cent on over \$5.	Yes.
Buffalo	25 cents	10 per cent on over \$10.	Do.
Cincinnati	do.	Seldom over \$2.	Do.
Cleveland	25 or 50 cents.	10 per cent where possible.	Do.
Detroit	do.		
Minneapolis	25 cents	10 per cent	
New York, Legal Aid Society	do.	10 per cent on over \$5.	Do.
Portland, Me.			Sometimes.
Providence	10, 25, or 50 cents.		Yes.
St. Louis	25 or 50 cents.		
Yonkers	25 cents.	10 per cent on over \$5.	Affidavits, and other papers, \$1.

Of the various societies and bureaus as to which definite information is available 10 charge registration fees and 37 do not; 8 charge a commission for collections or other valuable services and 37 do not. All of the public bureaus, except St. Louis, are free. Nearly all of the offices which are conducted as departments of organized charity societies (as the united, federated, or associated charities) charge no fees. On the other hand, most of the privately incorporated societies (and these include the organizations that do about half of all the legal aid work in the United States) do charge.

The legal aid organizations have fixed their fees at so low a point that no injustice results and therefore no principle is at stake. In those courts which are closest in function to legal aid work, the small claims courts, the practice varies: In California there are no fees, in Cleveland the fees are about 27 cents, in Massachusetts they are \$1.12. No form of social service is conducted on a higher plane to-day than that rendered by the hospitals in our great cities, and they generally adhere to the rule of charging patients some small fees for the services rendered.

From the legal aid point of view the world is divided into three groups of persons. First, those who can afford to retain their own attorneys. Such persons are not entitled to legal aid on any terms. Second, those who can afford to pay nothing whatsoever. Third, those who can pay trifling sums which are so small that no private attorney could or would undertake the case for such a fee, as, for example, a fee of 25 cents. To require persons in this last group to pay something for services rendered is not inconsistent with the fundamental concept of legal aid work, provided that the societies and bureaus never let their rules interfere with their obligation to aid the destitute and to extend to them freely and gladly the maximum assistance within the power of the legal aid organizations.

CHAPTER XV.—TYPES OF LEGAL AID ORGANIZATIONS

To give practical application to the legal aid idea in the actual cases of actual clients some machinery, some kind of organization, whether formal or informal, is necessary. In the course of evolution various types of legal aid organizations have developed. As the work is extended into smaller cities and as it is confronted with new conditions the number of types tends to increase. No ironclad uniformity in the details of organization is needed and very likely an absolute conformity to any single type would stifle experiment and therefore be undesirable. It is worth while, however, briefly to enumerate the various kinds of legal aid organizations now in existence, to compare them, and to venture certain general observations as to their efficiency.

First we may consider the group that we call specialized organizations, because their work is limited in one direction or another. Most of the public defender offices fall in this group because they are limited to criminal cases. In a sense legal aid work in the criminal field requires specialization; it certainly requires an attorney who is expert in the conduct of criminal cases; but in the long run it would seem to us preferable that all the legal aid work in any community, both the criminal and the civil cases, should be conducted by one office. When a legal aid organization already exists, this could be accomplished by adding to its legal staff a lawyer familiar with criminal practice, as has been done in Cleveland. When the public defender office already exists, the process would be reversed, which is virtually the situation in Los Angeles. When both a legal aid office and a defender's office exist in the same city the two might well be merged, as was done in New York.

Another type of specialized body is the National Desertion Bureau, in New York, that deals only with domestic relations cases.

A third type is represented by the Legal Aid Bureau of the Educational Alliance, in New York, and by the Legal Aid Department of the Jewish Social Service Bureau, in Chicago, both of which limit their service almost entirely to Jewish applicants and whose field of activity is very largely among immigrants. Through such specialization these organizations attain a high degree of efficiency. It will be noticed that they exist only in our two greatest cities; in the other cities of the country such specialization is not called for. Most communities can afford only one organization and need only one organization, because a properly equipped legal aid office can provide service in desertion cases and extend assistance to immigrants as a part of its regular work, and in fact the stronger legal aid societies and bureaus already do so.

The last specialized type that merits discussion is often called industrial legal aid. In this group we may place legal aid furnished by employers and legal aid furnished by labor unions. A number of corporations employing large bodies of men, such as the Ford Motor Co., the Yellow Cab Co. of Chicago, and the Youngstown Sheet & Tube Co., directed their legal staffs to give legal aid to employees. Thus in effect a company legal aid organization was established. The best description of the work of the company legal aid offices is to be found in Miss Claghorn's book, "The Immigrant's Day in Court." This plan has never been oversuccessful and the experiment in Youngstown has been abandoned. The theory that an employee who is worried about debts, home troubles, or other legal problems is an inefficient employee is perfectly sound; but the idea of having the company's own lawyer serve as the agent to remove such worries is subject to serious difficulties, no matter how able and kindly the company's lawyer may be. In the first place, the employer is apt to be the last person in the world to whom the employee wants to tell his troubles, and if they relate to any claims against the company itself, obviously, it is not easy to appeal to the attorney retained by the adverse party. The legal aid plan was generally instituted as a part of a general "welfare program," which throughout the country seems to have become increasingly distasteful to employees. The legitimate end which the corporate employer really sought to attain could have been secured far more effectively if it had expended the same amount of effort and money in cooperating with other groups in the community to found an independent legal aid organization to which workmen who need legal services they can not pay for would feel free to go. Where independent legal aid organizations do exist workmen seek their help in thousands of cases. A company legal aid office is undoubtedly better than nothing, but, in our opinion, it should be supplanted as rapidly as circumstances permit by the formation of a legal aid organization that is clearly divorced from any employer control as are the standard types of organizations described later in this chapter.

The reverse side of the foregoing picture is afforded by the provision for legal aid that has been made by certain labor unions, such as the United Mine Workers of Illinois, whose attorneys are especially active in compensation cases, and the Labor Secretariat in New York. This plan is not subject to the difficulty inherent in

the company plan, because the wage earner in applying to his union's attorney is in effect applying to his own attorney. It is a cooperative plan whereby the combined purchasing power of the group retains an attorney to serve any particular member who needs his help. The phrase "legal aid" connotes the provision of a lawyer's service to persons unable to pay for it, and under that definition the labor union plan is, strictly speaking, not "legal aid" in the technical sense at all. How far the benefits of this plan may be extended it is impossible to estimate. In contrast with a country like Denmark, the cooperative idea seems to progress slowly in America. But, even if rapid strides were made, the need for the standard legal aid organizations would remain. They serve a far wider clientele, embracing many persons who are not members of labor unions.

The relationship between organized labor and the legal aid organizations is yet to be defined and established. Their common interests cover a wide field. It is safe to conjecture that if the facts could be known it would appear that a substantial percentage of legal aid clients are members of unions and that a still larger percentage consists of wage earners in whose welfare and protection organized labor is concerned. The legal reforms urged in connection with the legal aid movement are of primary importance to labor. Where efficient small claims courts, industrial accident commissions, and administrative officials are secured the chief beneficiaries are wage earners. By reason of their community of interest a better understanding between the two groups in order that they may the more effectively cooperate is eminently desirable. Legal aid has already established its contacts with other organized bodies, such as the bar and the social agencies. To secure to an equal degree the genuine interest and cordial support of organized labor is unquestionably one of the greatest responsibilities, and at the same time one of the most promising opportunities, that the National Association of Legal Aid Organizations will face in the immediate future.

Taking up the organizations that engage in general legal aid work we find that while certain distinctive differences may be noted between various major types of organizations the dividing line is not always clear because one type through a series of minor variations tends to become merged with another. Thus the simplest machinery of all undoubtedly consists of an individual lawyer who volunteers his services and to whom a social agency refers all its cases, as in Pontiac, Mich., and Portland, Me. Next the work may grow to a point where the social agency pays the attorney to devote a definite part of his time to legal aid work, as in Lexington. The individual lawyer next evolves into a group of lawyers, who become known as a legal aid committee, as in Wilkes-Barre. Here we have the seed of a more formal and definite plan of organization which may become a state-wide institution, as in Illinois, or a full-fledged legal aid society functioning under the direction of a legal aid committee of the bar association, as in Detroit.

The less formal machinery is, of course, more suitable to the smaller communities, where the volume of cases is small and the pressure of the work not too onerous. This is normally the situation in cities of 50,000 inhabitants or less. It is feasible to have the legal aid work entrusted to a group of lawyers, preferably a group ap-

pointed by the local bar association, because the total responsibility that each such lawyer assumes is light and does not interfere with his own private practice. Of the various plans of this general type the Illinois plan seems to us the best. If a city of less than 50,000 population wishes to institute legal aid work, the natural step for it to take is to copy the idea embodied in the Illinois plan, with such local adaptations as are necessary. The Illinois plan is contained in a brief memorandum which is not easily available and so we reprint it here.

Memorandum of agreement for rendering legal aid to the poor between the family social work societies of the State of Illinois and the Illinois Bar Association

1. The family social work societies to furnish the Illinois State Bar Association with a list of the cities in Illinois having family social work societies and the name of the local secretary or manager of each.
2. The Illinois State Bar Association to get in touch with the local bar association in the cities where there are organizations of family social work societies with secretaries or managers and to invite such local associations to cooperate in furnishing legal aid.
3. The local bar association to furnish the secretaries or managers of the family social work societies with a list of their own members who will contribute their services without charge on properly signed orders from the family social work societies.
4. The local bar associations to appoint a committee of one or more members of the bar to act jointly with the local family social work society's secretary or manager in determining the general policies to be followed in local legal aid work.
5. The Illinois State Bar Association to furnish proper order blanks to be used by the family social work societies.
6. The member of the bar to make a notation on the report blank of the advice given or action taken, and upon completion of the service to mail it to the local family social work society's secretary or manager from whom the case came.
7. The secretaries of the various family social work societies will issue such orders only on such members of the bar whose names have been furnished by the local bar association, and such orders are to be issued in rotation as such names appear upon the furnished lists.
8. The joint committee above mentioned to determine what cases or classes of cases may be assigned with the understanding that a small fee will be charged.
9. The secretaries of the family social work societies will make a report to the State Association of Intercity Secretaries of Family Social Work Societies who will transmit a summary to the Illinois State Bar Association not later than May 1 of each year, beginning in 1922.

For the larger communities, certainly in cities of 100,000 inhabitants and upward, the only efficient way to conduct legal aid work is through a definite legal aid office organized and maintained on a definite basis. For this purpose four standard types of organizations have appeared. We may first take up the bar association type, the best illustration of which is to be found in the legal aid bureau of the Association of the Bar of Detroit. This is one of the best legal aid organizations in the country. By reason of the inherent nature of the work its establishment and conduct under bar association auspices is logical and thoroughly sound. The only important objection that has been urged against this plan is that bar associations have limited funds, and if they are unwilling or unable to secure financial support from the general community the legal aid work is sure to be starved. This has been the case in New Orleans, and apparently it was the case in Detroit until the

financing was undertaken by the community fund. Lawyers are not good money raisers, but if adequate financing is assured the supervision of the actual legal case work may well be entrusted to a committee appointed by the local bar association. The organized bar is steadily assuming a greater and greater responsibility for legal aid work, as we shall see in Chapter XVIII, and bar associations have undertaken to start the work in many cities, but they have generally either created a private philanthropic corporation to conduct the work, as in Boston, Louisville, and Providence, or they have worked out some joint arrangement with an existing charity organization, as has recently been done in Chicago.

Legal aid work conducted as a department of a general charity organization has been successful in many communities, notably in Minneapolis and Chicago. An advantage of this plan is that the legal aid financing is taken care of as part of the general financing of the whole charity organization, which from the community point of view is a sensible arrangement. The corresponding disadvantage is that if the general charity for any reason goes down the legal aid work goes down with it, as recently happened in St. Paul for a period of several months. The argument that a legal aid society should be independent in order that it may make its own appeal direct to the community is not substantiated by the facts. In Chicago the legal aid society, while it existed as an independent entity, received utterly inadequate support even from the bar itself; since it became a bureau of the United Charities it has been able, through the cooperation of an excellent committee appointed by the Chicago Bar Association, to increase its subscriptions from the bar to an extent that is remarkable and sets a pace for the rest of the country. The argument that legal aid work can not be managed by the same directors who control the general charity work has substantial merit. Legal aid work is a specialty; it differs from ordinary family welfare work in many ways; the wise formulation of its policies requires an intimate knowledge of the law and the administration of justice; its control, therefore, should be vested in a governing board composed primarily of lawyers rather than in a body whose chief interest and training is in social work. To the extent that the legal aid bureau is given autonomy, with its own controlling committee, this argument has no practical application. Both in Chicago and Minneapolis the legal aid bureaus enjoy so large a measure of autonomy in the working out of their own destinies that they are virtually as free as the independent philanthropic corporations.

In the largest cities most of the legal aid societies have been incorporated as private charitable corporations. New York, Boston, Buffalo, Cleveland, Cincinnati, Milwaukee, Newark, and Providence have always adhered to this type. The incorporated society form was also used in Philadelphia until the work was assumed by the city, and in Chicago until the society was merged with the United Charities. Much of the pioneer and development work that has been done in the legal aid field must be credited to the foresight, enthusiasm, and vitality that results from this form of organization. Such a society has initiative because it is free. Control is vested in a board of directors chosen exclusively because of their interest in the work. Though legally independent, these societies

have worked in close cooperation with the bar and thus have secured the substantial advantages of the Detroit Bar Association plan. It is probably safe to say that the private incorporated societies, taken as a whole, have made a better and more consistent record of performance than any other type, and it is clear that this form of organization is excellently adapted to the needs of the largest centers of population where the volume of legal aid work is likely to amount to at least 5,000 cases a year.

The chief weakness of the privately incorporated societies appears on the financial side. The price of their independence is that they must engineer their own financial support. As few legal aid societies are old enough to have accumulated any endowment by gifts under wills they can be supported only by appealing to the general public for donations. This is the responsibility of the directors and they have never been overly successful at it. While the community support has grown from year to year, it is undoubtedly true that many societies have been starved and the normal development and extension of their work have been retarded by inadequate funds. This objection may be obviated by the increasing tendency of all charities in a community to federate themselves for the purpose of making a joint public appeal for financial support. Where community chests and like plans exist, the burden of finances has been lifted in a large measure from the boards of directors of the legal aid societies, leaving them free to devote their time and energy to the management and guidance of the work itself.

The latest, and in many respects the most interesting, type is that of the public bureau which is generally organized as a department of the municipal government. In addition to the public defenders noted in Chapter XI, legal aid work in the civil field is conducted through public bureaus in Philadelphia, Kansas City, St. Louis, Los Angeles, Bridgeport, Dayton, Duluth, Omaha, and Hartford. These public bureaus give rise to certain theoretical considerations that go to the root of legal aid work and which are discussed at the end of this chapter. They also present certain practical advantages and disadvantages. Whereas the greatest weakness of the private society is the uncertainty of its financial support, a public bureau is comparatively free from this limitation. Once its appropriation is made, its finances are assured. Appropriations are made annually and the amount may at any time be reduced but the general tendency is for a municipal government to continue to provide steady and definite support. In at least one city the work has been stunted by a meager grant, but taken as a whole the cities have been more generous in supporting legal aid work than the public at large when solicited for subscriptions. This is apt to be the case because legal aid work is not expensive and the item seems an extremely small one in a municipal budget. It is certainly true that in Philadelphia the work doubled as soon as it was taken over by the city because the enlarged financial support made possible a larger staff which in its turn could care for more cases. It seems likely that the same development will take place in Pittsburgh. The practical disadvantage of the public office is that it is always exposed to intermeddling in its affairs by politicians. In the structure of our democracy, municipal government seems to be more subject to the

pernicious influences of petty politics than either the State or Federal branches of the Government. The public legal aid bureau in Dallas foundered on these rocks and municipal bureaus in two other cities have come perilously near to shipwreck.

The greatest asset of the private society is that it is controlled by a free and independent board of directors, and the public bureau is deprived of this advantage. It is normally subject to control by a city council composed of men who may well pass the final vote on its appropriation but who are not specially qualified to give any intelligent leadership in framing the general policies of a legal aid office. As was pointed out in Chapter XI, where this same problem arose in connection with the public defenders, it may be possible through the bar associations to provide this needed oversight and at the same time to lessen the danger of improper political interference. When the Philadelphia Municipal Legal Aid Bureau was established the Philadelphia Law Association created a special committee to extend whatever assistance might be called for. This is an admirable precedent. If such a legal aid committee of the local bar association can be developed into a sort of de facto board of directors for a municipal bureau, giving it the needed leadership in questions of general policy and constantly alert to detect any encroachment from partisan politics, the greatest inherent dangers of the public type of office will be guarded against.

The public bureaus have been more successful than any other type of organization in reaching the persons who need their help. The National Association of Legal Aid Organizations has compiled tables on this point which are submitted in the next chapter. They assume that a standard legal aid office should serve one person for each 100 of the population each year, and they show clearly that the public bureaus outdistance all other types in approximating this standard. This is partly because of their better financial support, but it is chiefly due to the very fact that they are public. As such they become better known to the community; their work is deemed of greater interest and is accorded more space in the newspapers; as time goes on the average citizen learns that there is a public legal aid office, just as he has already learned that there is a municipal court, a police station, and a district attorney's office, to any one of which he is entitled to go for assistance.

If the legal aid organizations are destined to become auxiliary parts of the administration of justice in modern cities, then unquestionably the public office is the most logical form of organization for legal aid work to assume. Justice is a public, not a private, concern, and it would be intolerable if any essential part of the machinery of justice were wholly dependent on the ability of a group of private individuals to provide the necessary funds. In a republic the administration of justice must be subject to the direction and control of the people acting through their own government, and by the same token every division or department or adjunct of the administration of justice must be obedient to public control. A democratic form of government undeniably has certain dangers and certain limitations, and any public service is exposed to the same risks, but unless one is prepared to argue against democracy itself it is idle to complain of the shortcomings that follow in its train. As

the technique of government is improved so will the service of all public agencies, including legal aid bureaus, be improved. Civilization itself depends on the ability of democracies to develop and maintain governments that are competent to deal with the complex problems of modern society. If the people of the United States are to prove competent to manage their own destiny, as we must believe they will prove to be, then it will be safe to entrust the public undertaking of legal aid work to their charge.

It is probable that for another generation at least the public and private types of legal aid organizations will exist side by side. The transition from private to public control will come about slowly and will be made one step at a time. This is eminently desirable because legal aid work still needs much development in many different directions, and the private societies by virtue of their greater freedom and independence are the natural bodies to undertake experiments. This has been their great contribution in the past, and there is every reason to expect that they will pursue the same course in the future. As Mr. Root wrote to the delegates assembled at the Cleveland meeting of the National Association of Legal Aid Organizations in 1923, no one can evolve out of his inner consciousness the answers to all the questions that legal aid must face. Progress will be made only through lessons learned in the school of trial and error. The private societies can afford to take chances that the public bureaus can not, and the private offices will therefore continue for some time yet to provide the leadership in the legal aid world. It is natural and entirely proper for the public offices to stand by and await developments. As experience is gained they may appropriate it, and as processes become standardized they may adopt them.

In the long run we believe that the public bureau will prove to be the prevailing type. Ultimately, in our opinion, all legal aid work will be taken over by public authority, and it is incumbent on those who are responsible for the direction of the work to shape their course to this end. In no other way, so far as we can see, can the administration of justice finally be rounded out so that it will be able to extend the equal protection of the laws to all persons in our great urban centers of population.

CHAPTER XVI.—PRESENT EXTENT OF LEGAL AID WORK

To measure the extent of any national movement both quantitatively and qualitatively in order to reach reliable conclusions that are not mere generalizations is a difficult task. In the strictest sense it is an impossible task, because no single eye can follow closely enough 70 or more legal aid offices transacting 126,000 different cases to determine with unerring accuracy how well each matter was cared for. In order to provide some intelligent basis for the future guidance of the work, the National Association of Legal Aid Organizations has necessarily been bound to inquire into its present extent and condition and in the course of its researches it has secured the data from which the material in this chapter is taken. While these records do not purport to be infallible, they afford the best methods of approach and in our judgment they reveal a picture that may be accepted as a close approximation to the true state of affairs.

The first and the simplest test is to fix the geographical extent of the work. We have seen in Chapter XII how legal aid developed first in the East, then in the Middle West, and finally reached the Pacific coast. When the pre-war era ended two great sections of the country were devoid of legal aid organizations. The first includes the Mountain States and embraces the territory east of the Pacific coast and west of a line running from Minneapolis to Omaha and to Dallas. This area is in the main sparsely settled, so that there has been less need to make provision for legal aid. Since the war, however, the Denver Bar Association has created a legal aid committee, and although no other legal aid organizations have been established Idaho has adopted legislation securing small claims courts for the State, and North Dakota has begun her interesting experiment with conciliation tribunals. The second area was the South, where the legal aid work took root most slowly, although the presence of great industrial cities indicated that it must be needed. Since the war the development in this field has been rapid. Atlanta, Louisville, and Memphis have formed incorporated legal aid societies. In Lexington an attorney is employed on a part-time basis to care for cases referred by social agencies; in Columbia a lawyer has volunteered to perform the same service. Groups in Birmingham, Greensboro, and Jacksonville are considering the inauguration of the work. In Dallas, where the public legal aid bureau was discontinued in 1917, the work was undertaken again in 1924 by the bar association.

As legal aid is essentially an urban problem, due to the fact that the conditions which require the establishment of some type of organization are found primarily in the larger cities, a test was made to ascertain how far legal aid work has extended into the cities of the United States. This test shows that in 1924 legal aid was definitely established in all of the 18 cities having a population of over 350,000 in 1920, in 8 of the 15 cities with a population of 200,000 to 350,000, in 5 of the 10 cities with 150,000 to 200,000 population, and in only 14 of the cities having a population of 25,000 to 100,000.

In cities of less than 100,000 inhabitants the need for any organized work is less clearly manifested. Probably formal organizations of a standard type will never be established. It is in this field that the Illinois plan seems so promising. It operates successfully in cities of 19,000, 16,000, two of 15,000, 13,000, 11,000, and 9,000. In the smaller cities the occasion for legal aid service generally arises in connection with cases being handled by the local social service organization. Any provision for legal aid, therefore, is naturally developed as an adjunct to a social service agency. The extension of the work into this class of cities should be undertaken in cooperation with the social service agencies and the arrangements designed to bring about such joint effort are stated in the next chapter, which is devoted to a consideration of the general relationship between legal aid and social service work.

In connection with the preceding tables, our assumption that where legal aid work was definitely established the situation might be deemed satisfactory was an arbitrary one. It is true that once the work is organized and begun in a community the probabilities are that it will grow from year to year until the legal aid office is

able to care for all the cases of needy persons, but when we try to ascertain the present extent of the work a more rigid rule must be applied. The best test for this purpose that has thus far been devised is to compare the number of cases handled by a legal aid office with the population of the city or district that it serves.

The figures in the following table have been compiled by the secretary of the National Association of Legal Aid Organizations. The construction of this table is more difficult than appears on the surface. The exact "population served by a legal aid office" is indefinite; the census figures are not always conclusive because a legal aid office may serve a territory either larger or smaller than the district used by the census for purposes of enumeration. Furthermore, outside factors enter to affect the number of cases that an office theoretically ought to receive in proportion to population; where small claims courts exist they handle many cases that in other jurisdictions would come to the legal aid office, and the same is true of domestic relations courts and labor commissioners. The figures have been checked with the local legal aid organizations as far as possible, and even if they contain a margin of error we believe that margin of error is too small to disturb the major conclusions which are based on the table and which follow it. The table reduces the total number of cases received by each organization to a basis showing how many cases were received for each 100 of the population. Under the rough standard set up by the legal aid organizations, there should be one case for each 100 inhabitants. Thus an office handling 0.75 case per 100 of population may be said to be filling three-quarters of the community's entire need for legal aid; one handling 0.50 case per 100 is meeting one-half the need, and so on.

NUMBER OF CASES OF LEGAL AID PER 100 OF THE POPULATION, BY CITY, AND TYPE OF ORGANIZATION

City	Type of legal aid organization	Population served	Number of cases received in 1923	Number of cases for each 100 of population
Akron.....	Social agency.....	209,000	85	0.04
Albany.....	Private corporation.....	114,000	93	.08
Atlanta.....	do.....	207,000	(¹)	-----
Baltimore.....	Bureau of social agency.....	815,000	216	.03
Boston.....	Private corporation.....	1,584,000	6,742	.43
Bridgeport.....	Municipal bureau.....	144,000	1,790	1.24
Buffalo.....	Private corporation.....	600,000	3,416	.57
Cambridge.....	do.....	110,000	100	.09
Camden.....	Social agency.....	117,000	24	.02
Chicago.....	Bureau of social agency.....	3,054,000	16,811	.55
Cincinnati.....	Private corporation.....	450,000	1,016	.23
Cleveland.....	do.....	944,000	5,948	.63
Columbus.....	Bar association committee.....	233,000	(¹)	-----
Dallas.....	do.....	159,000	(¹)	-----
Dayton.....	Municipal bureau.....	160,000	(²)	-----
Denver.....	Bar association committee.....	257,000	(¹)	-----
Des Moines.....	Social agency.....	127,000	(¹)	-----
Detroit.....	Bar association committee.....	1,166,000	2,803	.24
Duluth.....	Municipal bureau.....	110,000	2,958	2.69
Grand Rapids.....	Bureau of social agency.....	165,000	822	.50
Hartford.....	Municipal bureau.....	139,000	582	.43
	Public defender.....		70	
Hoboken.....	Private corporation.....	69,000	500	.72
Indianapolis.....	Bureau of social agency.....	315,000	400	.13
Jersey City.....	Bar association committee.....	299,000	(²)	-----

¹ Started in 1924.

² No record.

NUMBER OF CASES OF LEGAL AID PER 100 OF THE POPULATION, BY CITY,
AND TYPE OF ORGANIZATION—Continued

City	Type of legal aid organization	Population served	Number of cases received in 1923	Number of cases for each 100 of population
Kansas City	Municipal bureau	352,000	4,163	1.18
Lansing	Social agency	58,000	15	.03
Lexington	do.	42,000	(1)	-----
Long Beach	do.	56,000	(2)	-----
Los Angeles	Public defender	982,000	15,200	1.55
Louisville	Private corporation	235,000	1,121	.48
Memphis	do.	163,000	(1)	-----
Milwaukee	do.	539,000	2,380	.44
Minneapolis	Social agency	385,000	1,559	.40
Newark	Private corporation	415,000	(2)	-----
New Bedford	do.	122,000	400	.33
New Haven	Public defender	163,000	(2)	-----
New Orleans	Private corporation	398,000	790	.20
New York:				
Legal Aid Society	do.		29,270	
Educational Alliance	Department of social agency		2,995	
National Deserotion Bureau	do.	5,324,000	1,309	.64
Voluntary Defenders Committee	Private corporation		503	
Oakland	Social agency	217,000	(2)	-----
Omaha	Municipal bureau	192,000	1,800	.94
Philadelphia	do.	1,824,000	12,500	.69
Pittsburgh	Private corporation	1,208,000	350	.03
Pittsfield	Social agency	42,000	(2)	-----
Plainfield	do.	35,000	113	.32
Pontiac	do.	35,000	(2)	-----
Portland, Me.	do.	70,000	15	.02
Portland, Oreg.	do.	259,000	(2)	-----
Providence	Private corporation	368,000	320	.09
Reading	Bar association committee	107,000	(1)	-----
Richmond	Private corporation	183,000	(2)	-----
Rochester	do.	296,000	1,056	.36
St. Louis	Municipal bureau	773,000	1,398	.18
St. Paul	Bureau of social agency	235,000	(1)	-----
San Diego	Trust fund	75,000	(2)	-----
San Francisco	Private corporation		1,011	
	Public defender	507,000	1,019	.40
Seattle	Social agency	316,000	1,937	.61
Washington	Bar association committee		(1)	-----
	Social agency	438,000	38	.01
Wilkes-Barre	do.	74,000	(1)	-----
Worcester	Private corporation	180,000	(1)	-----
Yonkers	Social agency	101,000	17	.02
<i>Canada</i>				
Montreal	Social agency		798	.20
	Bureau of social agency	400,000		
Winnipeg	Municipal department	188,000	94	.05

¹ Started in 1924.² No record.

If we add the population figures of the various cities served by legal aid offices of which we have records, an aggregate of 24,628,000 is obtained. As these legal aid offices received 125,605 cases it is clear that they must develop much further before they will be strong enough and possessed of sufficiently large staffs to meet the full demand for their assistance.

Grouping the organizations by type yields instructive results. In the public bureaus we include the Los Angeles County public defender because it carries on civil work, but we exclude the other defenders because the standard of one case per 100 of population can not fairly be applied to an office that is confined exclusively to criminal matters. The statistics in the following table are drawn from the detailed figures in the preceding table. It has been necessary to include the three New York organizations in the group of private corporations, otherwise the total population of New York

served by the three would have to be apportioned among them, and there is no way to determine such an apportionment. We have thrown all three into the private corporation group rather than the social agency group because the New York Legal Aid Society, by far the largest of the three, is of that type and the National Deser-tion Bureau, although closely affiliated with the United Hebrew Charities, is, in fact, a separate corporate entity.

NUMBER OF CASES OF LEGAL AID PER 100 OF POPULATION, BY TYPE OF ORGANIZATION

Type of organization	Number of or-ganiza-tions	Total popu-lation served	Total cases	Number of cases per 100 of popu-lation
Public bureaus.....	9	4, 704, 000	40, 505	0. 86
Private corporations.....	17	12, 478, 000	58, 333	. 47
Departments of organized charities.....	15	6, 361, 000	22, 826	. 36
Bureau of bar association.....	1	1, 166, 000	2, 803	. 24

The actual legal aid work is performed by the lawyers, stenog-raphers, clerks, and investigators employed by the legal aid organi-zations. The number of cases cared for is primarily dependent on the size of the office staff. It is difficult to construct a table showing the number of persons on the legal aid staffs, because such data are not readily available and because in the smaller offices so many part-time arrangements are in effect. It has been necessary to ascertain the proportion of time such workers devote exclusively to legal aid, and any such apportionment can be only an estimate. Figures prepared by the secretary of the National Association of Legal Aid Organiza-tions show that of the 44 organizations for which he reports, 5 have staffs equivalent to ten or more full-time workers, 3 have eight, 5 have five or six, 4 have four, 6 have three, 7 have two, and 14 have staffs equivalent to one full-time worker. The statistics show that there is now engaged in legal aid work an aggregate staff of 94 lawyers, 65 clerks, and 35 investigators. The organizations have progressed far enough to be able to provide to their clients the services of nearly 200 specially trained workers. To these overworked and generally underpaid men and women belongs the credit for the excellent record that the legal aid organizations have made.

The present staffs of legal aid organizations are already over-loaded with cases. To do the more extended work that is necessary means that the offices must have larger staffs and this in turn calls for more adequate financial support. The legal aid organizations are all poor and they always have been. If they had known in 1916 that a war was coming whose effect on them in common with everybody else would be to double the cost of operations they would probably have felt that to double their income was an impossibility. Never-theless they have weathered this storm. The average cost per case, which was \$1.47 in 1916, in 1923 amounted to \$2.82; yet their budgets have expanded rapidly enough during the seven-year period to meet this increased cost and in many instances to permit a substantially larger volume of work to be undertaken. The following table gives

comparative records for 1916 and 1923. What can be accomplished in the future is best evidenced by what has already been accomplished and in this respect the records of Boston, Buffalo, Chicago, Cleveland, Detroit, Hartford, the Los Angeles County Public Defender, Milwaukee, Philadelphia, Rochester, and San Francisco are noteworthy.

NUMBER OF CASES AND GROSS EXPENSES, 1916 AND 1923, BY ORGANIZATION

Organization	1916		1923	
	Cases	Gross expenses	Cases	Gross expenses
Boston.....	2,608	\$6,498	6,742	\$31,070
Buffalo.....	1,516	2,372	3,416	13,506
Chicago.....	10,697	18,318	16,227	25,670
Cincinnati.....	1,698	1,359	1,016	2,500
Cleveland.....	4,946	3,210	5,948	19,035
Detroit.....	410	500	2,803	10,958
Hartford.....	134	114	532	1,200
Kansas City.....	5,270	4,226	4,163	8,400
Los Angeles Public Defender.....	8,848	21,199	14,000	24,749
Milwaukee.....	1,174	2,038	2,380	6,867
Minneapolis.....	3,029	3,435	1,559	6,402
New York Legal Aid Society.....	41,646	44,648	29,270	81,252
New York Educational Alliance.....	5,788	6,959	2,995	7,656
New York National Desertion Bureau.....	957	11,699	1,309	16,718
Philadelphia.....	4,845	4,437	12,500	28,555
Pittsburgh.....	684	1,882	350	1,685
Rochester.....	382	1,313	1,056	4,350
St. Louis.....	1,235	5,857	1,398	8,008
San Francisco.....	242	993	1,011	7,818
Total.....	96,109	141,057	108,675	306,399

The average cost per case in 1916 was \$1.47; in 1923, \$2.82.

There is no royal road to finance. The societies have no substantial endowments, and they are maintained by annual contributions or appropriations. Of the 11 organizations named above because of their noteworthy financial record, 3 derived their larger funds from increased public appropriations, 2 from community funds, 2 from more generous backing by members of the bar, and 4 from greater support by the community at large. The following table analyzes the various sources from which the organizations derive their income:

SOURCES OF INCOME OF THE LEGAL AID ORGANIZATIONS, BY CITY

City	Municipal aid	Subscriptions from individuals	Subscriptions from the bar	Grants from social agencies	Community chests, funds, etc.	Miscellaneous
Akron.....				X		
Albany.....		X				
Baltimore.....				X		
Boston.....		X	X	X		
Bridgeport.....	X					
Buffalo.....	X		X		X	
Cambridge.....				X		
Camden.....	X					
Chicago Legal Aid Bureau.....			X	X		
Chicago Jewish Legal Aid Department.....				X		
Cincinnati.....		X				
Cleveland.....					X	
Columbus.....			X			
Dallas.....			X			

¹ One-half of total income.

SOURCES OF INCOME OF THE LEGAL AID ORGANIZATIONS, BY CITY—Contd.

City	Municipal aid	Subscriptions from individuals	Subscriptions from the bar	Grants from social agencies	Community chests, funds, etc.	Miscellaneous
Dayton.....	X					
Detroit.....					X	
Duluth.....	X					
Grand Rapids.....				X		
Hartford.....	X					
Hoboken.....		X	X			
Indianapolis.....				X		
Jersey City.....				X		
Kansas City.....	X					
Los Angeles.....	X					
Louisville.....		X				
Milwaukee.....					X	
Minneapolis.....					X	
Nashville.....				X		
Newark.....					X	
New Orleans.....			X			
New York Legal Aid Society.....		X	X			X
New York Educational Alliance.....				X		
New York National Deserption Bureau.....				X		
New York Voluntary Defenders Committee.....		X				
Omaha.....	X					
Philadelphia.....	X					
Pittsburgh.....			X			
Pittsfield.....				X		
Plainfield.....				X		
Portland, Me.....				X		
Portland, Oreg.....				X		
Providence.....		X				
Richmond.....		X				X
Rochester.....					X	
St. Louis.....	X					
St. Paul.....				X		
San Diego.....						X
San Francisco.....		X				
Washington.....			X			
Total.....	11	10	10	17	7	3

¹ One-third of total income.

The organizations receiving municipal aid are all municipal bureaus except Buffalo, which is the only instance in which a privately managed society obtains any public grant. The bureaus supported by social agencies are all operated as departments of some organized charity except in Boston, where the Legal Aid Society is definitely retained by certain social agencies to care for all the legal questions arising in the course of their own work.

The legal aid organizations need, and are entitled to receive, greater financial support. The expense of their work, when compared with other forms of social service, is trifling. A vast amount of work can be performed on a small budget. It is easily within the power of each community to maintain a legal aid office sufficiently manned and equipped to care for all the cases of all the persons who are entitled to its assistance. The experience of the older and more strongly entrenched organizations is, on the whole, distinctly encouraging. Each year the true nature and importance of the work becomes clearer, more persons learn to appreciate the value of this type of public service, a wider interest in the undertaking grows up, and as a result the legal aid society or bureau receives more funds whether from public appropriations or private subscriptions. In short, legal aid work must earn its own way. It must command

the respect of public opinion, and it must win the sympathy of public-spirited citizens for its ideals and purposes. Where legal aid work is properly interpreted so that its function is plainly understood, there is every reason to believe and confidently to expect that it will receive adequate support from the community which it serves.

CHAPTER XVII.—LEGAL AID AND SOCIAL SERVICE AGENCIES

Whether we think of legal aid simply as a form of charity, like a hospital or a children's aid society, or regard it as a modern adjunct to the public administration of justice and as essential thereto as is the district attorney's office or the probation staff in a municipal criminal court, it is clear that between the legal aid organizations on the one hand and the social service agencies on the other there must be a close and definite relationship. Both are supported by the same community, both exist to serve the same community. While certain questions as to the precise nature of this interrelationship remain as yet unanswered, there has been since the war a rapid progress toward a more intelligent and better articulated cooperation.

To-day the social agencies play an important part in fostering and in conducting legal aid work. We have already seen in Chapter XV that many offices are organized under the auspices of social or charitable agencies. In Akron, Des Moines, and Lansing the social agency performs most of the local legal aid work as a part of its own activities, occasionally calling on some attorney for advice in special cases. In Pittsfield, Plainfield, Portland (Me.), Wilkes-Barre, and Yonkers, while the conduct of cases is in the hands of a committee of lawyers, the social agency maintains the office to which clients apply and from which they are referred to a member of the committee. In Baltimore, Grand Rapids, Minneapolis, and in the New York National Desertion Bureau legal aid is conducted as a separate entity in its own offices and by its own attorneys but its funds are obtained from a parent social agency. A closer affiliation is to be found in Chicago, Indianapolis, Lexington, in the legal aid bureau of the Educational Alliance in New York, and in St. Paul where the legal aid offices are in the same building with the parent charity organization whose executive director maintains a supervision of this work just as over other departments of the organization's activities. The Illinois plan for state-wide cooperation between the bar and social agencies in order to provide a legal aid service in the smaller cities has already been sufficiently described.

It has been natural for the legal aid movement to seek alliances in two directions, one with the organized bar and one with the organized social agencies. The first of these assumed definite form in 1921, as will be shown in the next chapter, so that when the delegates from the various legal aid societies and bureaus assembled at Philadelphia for their 1922 convention much of the discussion centered around the question of how to win a closer comradeship in thought and in work with the social agencies of the country. In

the course of their discussion the legal aid representatives found themselves forced to attempt to define the precise scope and function of their own work. A sharp cleavage of opinion at once appeared. The preface to the record of the proceedings at the Philadelphia meeting summarizes the situation as follows:

The relationship between legal aid work and the social service work has not been clearly defined as the relationship to the bar has been defined. This volume reveals two schools of thought marked by differences which have neither been reconciled nor thoroughly thrashed out. One school thinks of legal aid work as being nothing but law work for poor persons. It follows, logically, from this premise that the legal aid bureau's duty is exactly that of any lawyer, no more and no less. That the only problem to be settled is whether the applicant has, in the eyes of the law, a good case. That questioning the applicant in order to obtain data of social value is immaterial, if not impertinent. That when the legal aid attorney has given his client the full protection vouchsafed by law he has done everything he can do and all he ought to do.

Sharply opposed is the conception of legal aid work as a form of social service. The premise is that the function of a legal aid office is not identical to that of a private law office but partakes largely of the nature and attributes of a modern social service agency. It follows logically that considerations of social expediency and social necessity, as distinguished from bare legal right, enter into the situation, determine whether a case shall be taken, how it shall be conducted, what shall be done after the case is over as, for example, with money which has been recovered. The legal problem instead of being considered as an end in itself is considered rather as a symptom indicating that other difficulties exist in the individual or family which should be attended to.

Thus far the common ground between these two ideas has never been explored. The protagonists are still at arms' length. There has been no real meeting of minds. The arguments pro and con have scarcely advanced beyond these two generalizations, that it is the duty of legal aid organizations to furnish good legal assistance and, on the other hand, that legal aid organizations ought to cooperate with social agencies, which nobody disputes.

So far as the problem has been given precise statement it is this: Is legal aid work, by virtue of the fact that it is publicly supported, affected with a public interest in a degree substantially greater than that affecting private law practice?

Private-law practice is affected by the public interest and this is recognized by law and professional ethics. The lawyer has well-defined duties to the client and to the public. The question at issue is whether the legal aid attorney has somewhat different duties.

This will not be settled by putting extreme cases whose moral is clear and which prove nothing. Issue must be joined on the cases which are close to the line. For example, the legal aid attorney represents a defendant who owes money but the debt is barred by the statute of limitations or the defendant's property may be saved under exemption statutes. What is his duty? Or again, a thoroughly bad woman has a convincing case against a man of good reputation as the father of her illegitimate child and desires to compel him to support the child. What is the duty of the legal aid attorney? Or finally, a man has consulted the legal aid attorney and revealed certain facts. It later turns out that he is guilty of brutal treatment of his wife. A social service agency needs to know the facts. It is socially expedient and in the public interest that the agency should be given the facts in order to protect the woman. What is the duty of the legal aid attorney?

It is reasonably clear that sooner or later the legal aid societies will be forced to find the correct answer to these questions. The issues are perhaps the most dangerous they have ever faced. A decision, if proved by time to be wrong, may destroy public confidence in their work or, on the other hand, deter the poor from freely consulting them. It is obviously of vital importance that every effort be made to discover the true answers to this difficulty.

It was inevitable that there should have been this divergence of ideas, because the basic conceptions which will ultimately settle the controversy are themselves in an unformed, indefinite, and evolutionary state. This is illustrated by the first report of the com-

mittee on relations with social agencies, which was created in 1922 and in 1923 was made a standing committee of the National Association of Legal Aid Organizations. The report defined a legal aid organization as one which maintained an office whose primary purpose and duty was to give legal advice and assistance, and whose duty, if any, to render assistance of a social service character was secondary and collateral. It defined a social service agency as one concerned with promoting the general welfare of socially inadequate individuals, this being the best definition that the social workers themselves have been able to formulate. The next logical step is to decide whether those who apply to a legal aid office for help are properly to be classed as "socially inadequate." Here we come face to face with the unsolved question that marks the parting of the ways and from which proceed the two different schools of thought according to the answer which is accepted as correct. If society rightfully expects a man to pay for legal services and the other expenses incidental to litigation, just as it expects him to be able to pay for his coal, his food, and his clothing, then a man who applies to a legal aid office falls within the meaning of "the socially inadequate." If, on the other hand, society owes to every individual an affirmative duty to see that he obtains justice, whether he can pay the bill or not, then the man in going to the legal aid office is asking for something which is his by right and not by grace, for the community which provides the legal aid office is thereby not extending charity but is honoring its own obligation.

Realizing that time alone can tell which point of view is more nearly correct, the legal aid organizations, through their committee on social relations, undertook as their immediate problem the assembling of a body of data which would serve to illuminate the situation and provide a factual basis for further discussion. Along this sensible path the legal aid organizations are now proceeding. During 1923 and 1924 the committee endeavored to find out how many legal aid applicants are unquestionably "socially inadequate" because they are obtaining other relief from social agencies and thus are "known" to the confidential exchange or registration bureau where the social agencies record the names of all persons who seek their assistance. The following table shows the result of this inquiry in six selected cities:

LEGAL AID CLIENTS KNOWN TO SOCIAL AGENCIES, IN CITIES SPECIFIED

City	Number	Per cent
Chicago.....	154	30.8
Cincinnati.....	16	26.2
Cleveland.....	280	62.9
Milwaukee.....	132	52.8
Minneapolis.....	975	51.8
New York City.....	26	21.6

These figures are valuable. They tend to prove what has often been suspected but never before demonstrated, that the class in the community served by the legal aid office is not identical with the class served by the social service agency. Apparently half of the legal aid clients are persons who have never resorted to charity.

They are persons who pay their way and are self-supporting in all particulars except that they can not pay for legal services. As to such persons the task of the legal aid office is to give the necessary legal advice and assistance, and it is dangerous for them to attempt to do anything more. Any question remotely suggesting that such a client may need charitable help, however politely phrased the question may be, is almost certain to be resented and the office is likely to lose the confidence of this type of client, whom it is especially anxious to serve.

But the foregoing figures also show that many legal aid clients are definitely in the dependent class. It is often the case that at the same time the legal aid office is trying to adjust some legal matter a social agency is endeavoring to aid the same family. In all such instances cooperation is essential and the public has a right to demand that such cooperation be provided for by mutual arrangement between the two agencies.

Cooperation to be effective must be a bilateral undertaking. The ideal is reasonably clear. When a person goes to a legal aid office for legal help, if in fact he also needs social service help, the legal aid attorney should be able to ascertain that fact and see that the client is put in touch with the appropriate agency. Conversely, when a person goes to a social service agency for help of any sort, if in fact his problem directly or indirectly has a legal aspect, the social worker should be able to recognize the fact and refer the matter to the legal aid bureau.

At the present time this sort of team play is defective because the diagnosis on both sides is so often at fault. In connection with its 1924 report the committee on relations with social agencies addressed itself to this very point. It sent questionnaires to 328 family welfare agencies in cities where there are no legal aid offices to see how they cared for the legal problems arising in the course of their work. Seventy-eight replies were received. It also sent questionnaires to 45 similar agencies in cities where there are legal aid offices, and 32 replies were received. The results of this painstaking inquiry are sufficiently well summarized by the following paragraphs taken from the committee's report:

Upon examining the answers to the questionnaires it at once becomes apparent that family welfare agencies as a whole do not realize the value and importance of legal aid work; that, on the other hand, many legal aid organizations do not have a proper appreciation of social work, nor do they feel any responsibility toward assisting their clients who may be "socially inadequate" in the correction of their social maladjustments; and that in many cases there is not the proper cooperation between the two types of agencies.

Referring to the replies from social agencies where there are no organized legal aid societies and confining ourselves to those in cities whose populations are above 50,000, we find that 22 of the family welfare agencies reply that they do not feel the need of an organized legal aid society, while only 8 reply that they feel such a need.

It has been estimated that there is likely to be one legal aid client to every 100 of population each year. With the above in mind it would seem that either those requiring legal aid do not go to the family welfare organization or that family welfare workers do not always recognize legal problems when they encounter them. Many of the organizations which feel no need of a legal aid society have board members who are attorneys and hence, so they say, can secure from that source all the legal assistance they require. While it may be true that the social workers can secure legal advice from such a board member when it is needed, still it seems doubtful that they would feel free to

refer to the attorney persons who needed legal aid only and would not otherwise come to the attention of the welfare agency. In fact, one of the welfare societies, in its reply to the question as to whether it felt the need of a legal aid society, made the following comment: "We do not doubt that there are families who need free legal advice who do not come to us. People would hesitate to come to us and yet really need advice. Many people would go to a legal aid organization who would not apply to a family social work agency. Just as people needing medical attention would go to a clinic who would not apply to us." Another agency says: "The legal aid work, so far as the welfare league is concerned, is taken care of satisfactorily. Probably the poor could get more service for their personal cases if there was some way to get legal aid without paying for the services of any attorney."

There would seem to be proof of the statement that social workers do not always recognize legal problems when they meet them in the significant fact that of the 22 agencies referred to above as not feeling the need of a legal aid organization only 3 have a record of more than 10 instances in one month where legal advice was required. Many of these cities are commercial or manufacturing towns, and there must have been a large number of wage claimants and persons entitled to workmen's compensation who should have had free service and were unable to obtain it.

We believe that it is true that except where there are conciliation courts the greatest volume of cases handled by legal aid societies will be found to be wage claims, collections, and other cases involving contractual relations. Yet an examination of the answers to our questionnaires by social agencies where there are no legal aid societies will show that only 5 out of the 78 agencies asked for more in the way of legal services than advice in cases involving contractual relations.

The replies from the social agencies in cities where there are legal aid societies also show that they do not always avail themselves of the services of the legal aid to the fullest extent. This is sometimes due to the inadequacy of the legal aid society, sometimes to the lack of cooperation between the two agencies. The fault may lie with either or both organizations.

The answers to the questionnaire show that where the relations are considered satisfactory by the welfare agencies the number of cases referred to the legal aid for advice or legal service is large, and where the relations are unsatisfactory because of the inadequate legal aid staff or because of the society's lack of sympathy with social problems the number of cases referred to the legal aid society is very small. This shows that by failing to cooperate with the family agencies the legal aid societies are cutting down their own usefulness.

It is interesting to note in this connection the answers of the legal aid societies to the question whether it is advisable to have a trained social worker on the legal aid staff. Twelve legal aid societies answered in the affirmative and 12 in the negative. Five of those answering in the negative are bureaus of public welfare departments.

The best hope for the final solution of the problem lies in the fact that it is being attacked from both sides. In 1923 it was discussed by legal aid and social workers at the national conference of social work. As a result, the American Association for Organizing Family Social Work appointed a committee on legal aid work, which early in 1925 met at Chicago with representatives of the National Association of Legal Aid Organizations. If as much progress can be made in the next three years as has been made in the past three years, the legal aid and social agencies will be nearing the end of their quest. Between the two groups a strong bond of sympathy has already grown up, the days of aloofness are over, in some cities an excellent technique of cooperation has been developed, and all along the line an earnest desire to press forward in a joint campaign is manifest. While the questions raised in this chapter are perplexing they are not insoluble, and if patience, perseverance, and free interchange of opinion can accomplish it, they will be solved in the near future through the combined intelligence of the legal aid organizations and the social-service agencies.

CHAPTER XVIII.—LEGAL AID AND THE BAR

The relationship between legal aid work and the legal profession is simple and clear. The legal aid organizations are the agents of the bar and they are accordingly entitled to receive from the bar leadership and direction, moral and financial support. In the main this relationship is understood and accepted to-day by both parties and the resulting obligations imposed on both parties are being honored. There is no finer chapter in legal aid history, no other development contains a brighter promise for the future, than the record of what has been accomplished during the few years since the war in cementing together the organized bar and the organized legal aid work.

Because the practice of law is a profession and not a business, every lawyer owes certain ethical obligations which are sanctioned by long tradition and which find their modern expression in definite canons of ethics. Each lawyer is a minister of justice, and before he is permitted to practice he must take a solemn oath in open court. This oath of admission to the bar, as set forth by the American Bar Association, contains as its final clause these words: "I will never reject from any consideration personal to myself the cause of the defenseless or oppressed, or delay any man's cause for lucre or malice. So help me God."

By virtue of this promise reputable lawyers have at all times rendered much professional service without hope or expectation of any pecuniary fee or reward. It has been said that the first legal aid work was done in the first law office established in America, and doubtless that is true. Beginning with the last quarter of the nineteenth century our great cities contained steadily increasing numbers of persons who were legally defenseless and legally oppressed. The bar as a whole did nothing. This inaction was not due to hard-hearted indifference but to the fact that no one appreciated what was happening. As lawyers gradually became aware of the serious shortcomings in the administration of justice they realized that the conditions with which they had to contend were beyond the power of any individual, and they began to undertake collective action through the bar associations. It must be borne in mind that the American Bar Association itself was not formed until 1878, which is two years later than the establishment of the first legal aid office in New York. While legal aid work was slowly developing with the encouragement and support of a few public-spirited lawyers, the bar associations were also growing in numbers, prestige, and power. It is now recognized that the individual lawyer can best render efficient public service by cooperating with his fellows and by securing appropriate action through the bar associations. For that reason the relationship between legal aid and the bar, if it was to be a practical relationship productive of tangible results, had to become a working alliance between organized legal aid work and the organized bar.

The first conference of delegates from the State and local bar associations of the United States was held at Saratoga Springs in 1917, and at that meeting the following resolution was adopted:

It is the sense of this conference that bar associations, State and local, should be urged to foster the formation and efficient administration of legal aid

societies for legal relief work for the worthy poor, with the active and sympathetic cooperation of such associations.

In 1920 the American Bar Association set aside one morning session for a discussion of legal aid work, and also voted to create a special committee on legal aid work. This special committee recommended that the American Bar Association should amend its constitution in order to provide a standing committee on legal aid work, and said:

Your committee's reasons for these alternative recommendations may be summarized as follows:

1. There is a direct responsibility, both civic and professional, on members of the bar to see to it that no person with a righteous cause is unable to have his day in court because of his inability to pay for the services of counsel.
2. This responsibility is best met by members of the bar acting, not as individuals, but in their collective capacity and through their recognized associations.
3. Legal aid and advice to poor persons are most efficiently and economically secured, at least in the larger cities, through the existing agencies specially created and adapted for this purpose, called legal aid organizations.
4. There should be, therefore, a direct relationship between the American Bar Association and legal aid work in its national aspects and as a national movement.
5. This relationship is of a permanent and continuing nature and should be recognized as such by the creation of a standing or annual committee, which should each year report to the association as to the progress, the needs, the advantages, and the shortcomings of legal aid work in the United States.

At its 1921 meeting the association by unanimous vote did so amend its constitution, and thus legal aid work became one of the recognized continuing professional responsibilities of the bar in the United States. Pursuant to the recommendation of its standing committee, the American Bar Association in 1922 adopted the following resolution:

The association requests the officers of the section of conference of bar association delegates to bring the subject of legal aid work before the members of the section as soon as may be, to the end that every State and local bar association may be encouraged to appoint a standing committee on legal aid work.

The State bar associations in California, Connecticut, Illinois, Michigan, New York, Pennsylvania, and Wisconsin have created legal aid committees. How quick the bar has been to extend its cooperation and how clearly it has grasped the true nature of the relationship may be seen by examining what three or four of the State associations have done.

The New York State Bar Association appointed a special committee on legal aid societies, which filed a most admirable report on January 16, 1920. It sent questionnaires to the 61 bar associations in the State and found "in most of these communities there was little interest in legal aid work and probably no organized legal aid societies."

This excellent report covers the ground so perfectly that certain parts of it deserve reproduction here:

The need and opportunity for legal aid work is apparently more pressing in the larger cities, but we believe that there is ample opportunity for bar associations to make themselves useful in this direction even in the smaller communities. In smaller communities a separate organization may not be justified, and the work may well be carried on by the bar association. In the larger cities, where established agencies exist, the bar association should enter into active cooperation.

It appears that the financial support of legal aid work is wholly inadequate for the needs of the community, and that our profession is not even meeting its fair share of this.

Justice at prohibitive cost, as is the case with the poor, is not justice.

Free government is in peril when justice is not administered so as to sustain belief in its easy availability and fairness. Any State or society which does not look to the enforcement of the law and the protection of rights for the poor and weak and friendless is wanting in that keystone of the arch upon which a stable society and government rests. Where this essential is lacking you shake the faith of the people in government and bring in question the fundamental fairness of our institutions. Disrespect for law and the spirit of resistance and unrest, which to-day excite the apprehension of every thinking man, are the natural harvest of inadequate facilities to secure the rights of all, even though they be of small pecuniary magnitude.

For our profession to meet this issue and make a substantial contribution to the support and stability of our institutions, which in these days is the greatest contribution anyone can make, is an alluring achievement.

In 1922 the committee on legal aid societies of the New York State Bar Association filed its second report. It stated:

In the opinion of your committee the work of providing legal relief to the poor is primarily the duty of the bar as a whole, and instead of officers of legal aid societies being required, as they now are, to appeal constantly in every quarter for funds to meet legal expenses, local bar associations should take it upon themselves first to see that the work is adequately performed, and then that the cost is fully met.

It called attention to the following resolution which had been adopted by the State association:

Resolved, That the State bar association and all local bar associations should assume greater responsibility for the maintenance and conduct of legal aid work, and to that end should actively seek support for established legal aid organizations, and in communities where no such organizations exist should become directly responsible for the systematic conduct of such work.

The Connecticut State Bar Association discussed legal aid work at its 1920 annual meeting and appointed a committee in 1921, which has been continued from year to year. Its activities have been summarized by its chairman in the following letter:

Our committee has a very definite program outlined for it by the bar association. It has been the same program for the last four years. It originally consisted in the presentation to the legislature and the attempt to secure the passage of three bills. The first was to put on a formal basis the public defender. This bill received favorable action in 1921. We now have a public defender in each county, appointed by the judges of the superior court. The second bill provides for the establishment of small claims courts. We thought we had this bill passed last year, but we were fooled. We have been instructed to present it at the next legislature. The third bill provides for the creation, in each of the counties of the State, of a legal aid director, who will handle civil cases for poor people. If this bill should be passed, presumably the office of the public defender and the legal aid director will be filled by the same persons. We are instructed to present this bill to the next legislature.

The admirable work of the Illinois Bar Association in devising the so-called Illinois plan for extending legal aid work in the smaller cities has already been described. This plan was formulated in 1921; it was officially approved at the 1922 meeting of the association, and in 1924 a committee on legal aid work was appointed.

The Pennsylvania Bar Association considered the subject in 1922 and 1923, and in the latter year authorized the creation of a legal aid committee. The report of this committee is especially valuable, because it took the thought expressed in the 1920 report of the New York State Bar Association committee as to the duty of the bar in

smaller communities and translated it into a definite recommendation, which was approved by the association. The committee's recommendations were as follows:

1. That every bar association in the State of Pennsylvania be requested and encouraged to appoint a standing committee on legal aid work.
2. That this association and all local bar associations should assume greater responsibility for the maintenance and conduct of legal aid work, and to that end should actively seek support for established legal aid organizations and, in communities where no such organization exists, should become directly responsible for the systematic conduct of such work.
3. That in the smaller communities where a separate legal aid organization may not be justified, the work be carried on by the bar association. That in the larger cities bar associations should actively cooperate in the establishment, maintenance, and supervision of such organizations.

The legal aid committee of the Michigan Bar Association, appointed in 1923, has recommended legislation providing for the establishment of public legal aid bureaus throughout the State. In its 1924 report it asked "approval and support of legislation which would permit cities in Michigan of over 25,000 population to establish and maintain an office of legal aid as a department of municipal government, and suggests that the committee on legislation and law reform be requested to prepare and present to the association for consideration whatever bill may be necessary to grant such authority."

So many of the local or city bar associations have taken action in furtherance of legal aid work that any detailed description of their activities is impossible within the limits of this bulletin. The following list of cities in which bar associations and groups of lawyers have rendered valuable service is sufficiently indicative of the widespread interest that is now manifested in all sections of the country:

- California.—San Francisco, Los Angeles, Long Beach.
- Colorado.—Denver.
- Connecticut.—Hartford, Bridgeport.
- District of Columbia.—Washington.
- Georgia.—Atlanta.
- Illinois.—Chicago and in the smaller cities under the state-wide plan described herein.
- Indiana.—Indianapolis.
- Kentucky.—Louisville.
- Louisiana.—New Orleans.
- Maine.—Portland.
- Massachusetts.—Boston, Worcester.
- Michigan.—Detroit, Grand Rapids, Lansing, Pontiac.
- Minnesota.—Minneapolis.
- Missouri.—St. Louis.
- New Jersey.—Newark, Jersey City, Hoboken.
- New York.—New York, Buffalo, Rochester, Albany.
- Ohio.—Cleveland, Cincinnati.
- Oregon.—Portland.
- Pennsylvania.—Philadelphia, Pittsburgh, Wilkes-Barre, Reading, Scranton, Harrisburg.
- Rhode Island.—Providence.
- Tennessee.—Memphis.
- Texas.—Dallas.
- Virginia.—Richmond.
- Wisconsin.—Milwaukee.

In the local field the bar associations have an opportunity to give extremely practical assistance. One or two illustrations must suffice to show what the bar associations are doing along these lines.

In 1921 the New York County Lawyers' Association adopted and sent to every member a resolution commending legal aid work and asking members of the bar to support it. In 1923 this association appointed a special committee to examine the work of the Legal Aid Society of New York, and the association at its own expense sent out a copy of this report to all its members urging them to become subscribers to the legal aid society. The New York City Bar Association appointed a special committee on legal aid work in 1919 that filed a report calling upon the bar to give more generous support to the legal aid organizations in the city. In 1923 the executive committee sent to every member a letter stating "Legal aid is primarily the obligation of the legal profession," pointing out that comparatively few lawyers actually support the work and urging more lawyers to become contributing members of the legal aid society. In Chicago the bar association has assumed the responsibility for raising one-half of the budget of the legal aid bureau. In Philadelphia, where the bureau is supported by municipal appropriation, the law association maintains a committee to investigate and study the work. In Detroit the bar association has assumed full responsibility for the establishment and conduct of the local legal aid bureau.

The responsibility of the organized bar for legal aid work may be analyzed into four major undertakings:

First. In cities where a legal aid organization is needed and none exists the bar should take the lead in its establishment. In Chapter XVI we have pointed out the class of cities which presumably require a definite legal aid office with a salaried attorney if the work is to be adequately done.

Second. In cities where legal aid organizations and public defenders already exist the bar's obligation is essentially of a paternal nature. It should support the work through its own financial contributions. There is no reason why the entire expense should fall on lawyers, but there is every reason why the members of the profession should give their full share before other citizens in the community are asked for subscriptions. Equally important is the task of leadership. It is natural that the majority on a board of directors or other governing board should be lawyers, but in addition the bar association, through an appropriate committee, should maintain an independent supervision that may be invaluable in times of emergency and is of especial importance in connection with the municipal legal aid bureaus. Such a committee should cooperate in the formulation of the general policies of the work, it should pass on those borderline cases and classes of cases, noted in Chapter XIV, where the duty and function of the legal aid office is in doubt, and it should provide a list of attorneys to whom the legal aid office may refer clients whose cases for one reason or another it is unable to accept.

In the smaller cities, the bar itself should perform whatever legal aid work is necessary. Where the population is 25,000 or less not more than a hundred or so cases are likely to arise each year. No formal organization is required to carry so light a load. By dividing these cases among the members of the bar under some simple system of assignment the burden imposed on each individual lawyer does not interfere with his private practice, and yet under such a plan no poor person need be deprived of his rights because of his inability to pay for legal services.

Finally, the bar must be relied on to take the leading part in shaping and guiding the future developments in this general field along sound and constructive lines. The fundamental idea expressed in the legal aid organizations has passed the experimental stage. The necessity and importance of their service have won for them the support of such eminent members of the profession as Mr. Chief Justice Taft, former Secretary of State Mr. Hughes, Hon. Elihu Root, Senator Pepper, Dean Roscoe Pound, and Dean John H. Wigmore. President Coolidge, while Governor of Massachusetts, wrote to the Boston Legal Aid Society under date of November 17, 1920:

Your society in furnishing legal assistance to the man who can not well afford to pay provides him with the advantages of his richer brothers in his appearance before the court. This service upholds the honor and dignity of the law in the eyes of the poor and the ignorant and thus supports the efforts of the Government to protect each citizen in all of the rights and privileges which the law guarantees to him. Your society has always been, though perhaps quiet and unobtrusive, a force in the community that made for the preservation of law and order. The future presents to the society an opportunity to combat among the people the spread of seductive foreign doctrines tending to undermine our institutions. I know the society will continue to receive widespread public support in order that its efforts may not diminish.

Every bar association has as its primary object the advancement of the administration of justice. The legal aid organizations need and are entitled to receive a full measure of bar-association support, because they constitute an essential feature in any plan for adapting our legal institutions to the requirements of our present industrial and urban communities. The legal aid societies and bureaus are not an end in themselves. They are the means through which the most formidable barrier in the path of the impecunious citizen who needs legal redress or protection may be removed.

All the chapters of this bulletin have been designed to show that already we have nearly enough experience to construct a definite, comprehensive, and thorough-going plan that will serve beyond any reasonable doubt to overcome the difficulties of delays, court costs, and the expense of counsel and thus to make the laws actively effective in behalf of all persons. The plan calls for some simplification of procedure, it requires the adoption of an adequate in forma pauperis statute, it relies on the small claims courts to provide for the summary adjudication of the smaller controversies and on the industrial accident commissions to safeguard the rights of injured workmen through efficient administration of the compensation acts. In the field of claims for unpaid wages it contemplates more stringent legislation, modeled on the Massachusetts plan, enforced through the office of a labor commissioner. To make certain that indigent persons who are accused of serious crimes have adequate representation, it advocates the public defenders as slightly more efficient and economical than the alternative system of paid assigned counsel. To provide the necessary services of attorneys in civil cases it proposes that in the smaller communities the simple arrangement devised by the Illinois State Bar Association should be applied, that in the great cities where the cases needing attention are numbered by the thousands a definitely organized legal aid office, whether public or private, should be established and maintained, and that as a final resort every court should have express power to

assign any member of the bar in a proper case and to fix his remuneration.

The task for the future is to integrate these separate remedial measures and remedial agencies into one harmonious whole, to coordinate them, to urge their adoption by the legislatures of the several States, and then to maintain a continuing study of their operation in actual practice, so that such modifications and amendments as may be proved necessary or desirable in the light of further experience can promptly be made.

To the performance of this task the bar must bring its trained faculty of critical analysis, its intimate knowledge of the constitutional principles on which our legal institutions are based, and its highest vision. While the responsibility for leadership may fairly rest on the shoulders of the bar, its resources and its power are limited, and therefore every other possible aid must be enlisted. From the National Association of Legal Aid Organizations should come whatever expert information concerning technical details and routine may be required. From the social service agencies which now exist in every city, whether large or small, and which occupy such a strategic position in their relation to this whole problem, there may be expected an increasing spirit of cordial helpfulness. Above all, if progress is to be had, there must be obtained a genuine community interest and the moral support of an enlightened public opinion. This task can not be performed in a day, it may not be completed within our generation, but every advance that is made brings us one step nearer to a practical realization of our American ideal that through the orderly administration of justice all citizens shall receive the equal protection of the laws.

APPENDIX A.—DRAFT OF PROPOSED STATUTE PROVIDING FOR IN FORMA PAUPERIS PROCEDURE

This draft was submitted to the American Bar Association by its committee on legal aid work on July 10, 1924, as appears in the 1924 report of the American Bar Association, Vol. XLIX. This is a first draft and is subject to revision.

FIRST DRAFT OF A POOR LITIGANT'S STATUTE

INTRODUCTION

The background of this draft for a statute is explained by the article entitled "Poverty and civil litigation" in 36 Harv. L. Rev. 361. In the United States this article has been reprinted by the Legal Aid Review, volume 21, No. 2 (April, 1923); reprinted in abbreviated form by the Journal of the American Judicature Society, volume 6, No. 6 (April, 1923), page 179; and also by the Michigan State Bar Journal, volume 2, No. 7 (May, 1923), page 202; and reviewed in the American Bar Association Journal, volume 9, No. 7 (July, 1923), page 457, by Prof. Austin Wakeman Scott. In England the entire text has been reprinted in 156 Law Times, pages 345, 368; and the article has been reviewed in 67 Solicitors' Journal, 419, and by his honor, Judge Parry, in the Evening Standard (London) for April 16, 1923.

The article points out that the United States possesses a great advantage over England because of the existence of legal aid societies supplying competent lawyers to work for the poor. On the other hand, this country is at a great disadvantage as compared with England because we lack a uniform, intelligent, and comprehensive scheme for relieving poor litigants of the burdens imposed by costs or fees. No such scheme can succeed unless it is carefully prepared. Without adequate supervision unworthy claimants are apt to abuse privileges of this sort. Such abuse renders access to the courts far more difficult for poor people who deserve to have their cases heard. Indeed it is because of the failure to reject undeserving claims more than for any other single reason that English efforts to do justice to penniless civil litigants prior to 1914 were nearly all failures. The draft statute to which this commentary is annexed represents an effort to carry over the good points of the English practice to American soil with proper modifications and additions to allow for the change in environment.

POOR LITIGANT'S STATUTE

SECTION 1. Any person whether a resident or nonresident, citizen or alien, may be admitted to participate as a poor litigant in any cause, civil or criminal, pending or proposed, before any court of original or appellate jurisdiction, subject to the provisions hereinafter set forth.

This broad defining section is necessary. American courts in the past have been hesitant about exercising their powers to assist poor litigants. They need encouragement by the legislative assurance that no distinction is to be drawn between the various classes of litigants in either nisi prius or appellate courts.

SEC. 2. Wherever used in this act (chapter, title)—

A. The term "participation" shall mean and include the prosecution or defense of any cause, or any intervention or joinder whatever therein, whether directly in person or indirectly through a representative party.

B. The term "representative party" shall mean and include any guardian, administrator, executor, trustee, or other person duly authorized to represent in legal proceedings the personal or financial interests of a poor litigant; but said term shall not mean or include a corporation, association, or trust in which a poor litigant has an interest only as stockholder or creditor.

C. The term "cause" shall mean and include any and every proceeding of whatever name or nature before a court, judge, justice, or judicial magistrate.

D. The term "final judgment" shall mean and include any and every judgment, decree, or order in whatever form which terminates any cause or any separable portion of any cause.

To simplify the phraseology of the statute certain terms are given fixed meanings by this section. It will be observed that here as in the preceding section the effort is to lay down all definitions on the broadest lines consistent with clarity. In particular, it will be observed that the act is directed to assist a poor person who has an ultimate interest in legal proceedings. Heretofore under many poor litigants' statutes the trustee or guardian has had to prove that he himself is without means to carry on litigation. It is unjust thus to make the poor beneficiary or ward depend upon the good-heartedness of the representative party. It also seems distinctly unfair to lay on the latter at least a moral burden of advancing the expense of litigation from his own pocket. Of course it is not contemplated that the poor beneficiary of a rich trust fund should have his cause litigated free. In that case the public counsellor would undoubtedly find that he was not dealing with a true instance of poverty. It is also realized that this clause B of the section can not be cast in universally acceptable phraseology. In New York, for example, the enumeration of "representative parties" would be somewhat different.

SEC. 3. The term "poor litigant" as used in this act (chapter, title) shall mean any applicant found by the public counsellor hereafter defined:

A. Not to be worth a sum exceeding \$500, exclusive of his rights in respect of such cause, and also exclusive of property exempt from execution and from being reached or applied upon a creditor's bill; and

B. Not to be receiving or reasonably to be expected to receive an income averaging more than \$25 per week;

And also, except in respect of criminal proceedings wherein the applicant is, or is about to become, a defendant;

C. To have reasonable grounds for participation in the cause in question.

In case participation in a cause is sought not directly but through a representative party, only the beneficially interested party shall be required to establish his status as a poor litigant.

This section runs along the general lines of the present English poor persons rules. The maximum amounts of property and income have been raised because of the higher price level in the United States. It will be observed that the section assumes every poor person charged with crime to have reasonable grounds for defending himself. But in many civil proceedings the public counsellor will conclude the poor person does not have an adequate reason for participation. Even where the poor person's claim is theoretically perfect the public counsellor may so conclude if the cost of enforcing the claim would be grossly disproportionate to the recovery. The term "public counsellor" is used to designate the administrative officer in charge of poor persons' proceedings because it makes a good catchword and a fair parallel for the now familiar public defender. The quick success of any system like this depends very largely upon the selection of dignified and at the same time attractive titles for those who administer it.

SEC. 4. For special and unusual reasons peculiar to the situation of any applicant the public counsellor may in his discretion find that such applicant is a poor litigant although he does not comply with the requirements of the preceding section. The public counsellor may in any case refuse to find that the applicant is a poor litigant, notwithstanding the fact that he complies or appears to comply with the relevant requirements of said preceding section.

This section is intended to cover unusual situations. One particular reason for refusing to find an applicant a poor litigant despite his compliance with the preceding requirements would be the existence of a small claims court or other similar tribunal where he could fight his case for himself.

SEC. 5. With respect to any cause the term "public counsellor" as used in this act (chapter, title) shall mean the district (county) attorney for the time being within whose district (county) the cause may lawfully be, and is being or is proposed to be, tried or presented. With respect to any cause within the jurisdiction of (any inferior or probate court; name them) the term "public counsellor" shall also include the clerk or other corresponding officer for the time being of the court having jurisdiction and before which said cause is being or is proposed to be tried or presented. Any officer defined as a public counsellor may delegate to an assistant or assistants all or any part or parts of his powers, discretion, and duties in such capacity. The term "public counsellor" shall also include a master duly authorized and directed under section 8 of this act (chapter, title).

The reason for designating the clerks of inferior courts as public counsellors is obvious. The district or county attorneys are so designated because their office is universal or almost universal throughout the United States. The incumbents discharge functions which render their connection with the present system thoroughly reasonable. The pre-

liminary investigation of poor men's causes ought not to be, as it has been made in the past, a time-wasting matter for judges. The questions raised are not directly judicial ones. They can and should be handled by executive officials. The draftsman has assumed that both district or county attorneys and clerks of court will often find it proper and convenient to designate subordinates as public counsellors. This has been the practice with respect to those small claims courts which are divisions of larger general courts. One of the assistant clerks has been put in charge of the small claims business and thus given a particular subdivision of work for which he is responsible and by the successful administration of which he can make his mark.

SEC. 6. The public counsellor shall on request from any intending applicant furnish him with a form of application and shall advise and assist him in completing or filling out such form. In case participation in a cause is sought not directly but through a representative party, the public counsellor may permit such representative party to make out and file the application.

In the past much time has been wasted by disputes as to whether a poor person has filled out exactly the right form of application for relief. These disputes are singularly footless and it is the object of the draft statute to prevent them once and for all by giving the public counsellor entire control over details of form. In general, it is believed that the application should include a sufficient description of the cause and the parties concerned therein and also if possible the names and addresses of persons to whom reference can be made as to the applicant's circumstances and character. Where legal aid organizations exist poor persons may go to them for advice and assistance in filling out the forms of application.

SEC. 7. In passing upon any application the public counsellor may make or cause an assistant to make such investigation as he deems advisable. He may in his discretion refer the application to any available legal aid society or other like organization, or he may appoint any attorney at law as a reporting attorney, to make such investigation and report thereon. Unless and except so far as otherwise ordered by the public counsellor in charge, the report, any documents or information obtained for the purposes of the report, and any documents or information furnished in connection with the application shall be privileged from disclosure in any cause and shall not be disclosed to any party or other person.

It has been deemed unwise to embody in the statute the exact steps of investigation. These steps may indeed vary greatly from case to case. Certainly every investigation ought if possible to include a personal interview with the applicant. Beyond that the work of the reporting attorney should depend upon his own initiative as well as directions from the public counsellor.

SEC. 8. All findings, decisions, and orders of the public counsellor as to matters committed to him by this act (chapter, title) shall be final and binding upon all persons unless and until modified or revoked by him, and shall not be subject to review by appeal or otherwise, except that any applicant aggrieved by the public counsellor's refusal to find that he is a poor litigant may apply to a judge (justice) of the (principal civil court in the county) who may, if he deems it advisable, appoint a special master to inquire into the matter and find whether the applicant is a poor litigant. The finding by such master shall have the same effect as a similar finding by the public counsellor, and if the finding be that the applicant is a poor litigant any judge (justice) of said court may authorize and direct the master thereafter to be, and exercise and perform all the powers, discretion, and duties of, public counsellor as to the applicant's participation in the particular cause or causes, whether in a lower or an appellate court.

Rarely if ever should there be an appeal from the decision of a public counsellor. However, in extreme cases an avenue for carrying the matter to a higher tribunal should be left open. If an application is thus carried up it should not always be remitted to the mercies of an unsympathetic public counsellor. For that reason continued control by the special master is made possible.

SEC. 9. The public counsellor may at any time revoke his finding that any applicant is a poor litigant, and with respect to proceedings after such revocation such applicant shall stand as if the finding had not been made. Notwithstanding the finding that any applicant is a poor litigant, the public counsellor may at any time or times impose such terms as he deems desirable upon the applicant's participation in the cause. Neither a finding by the public counsellor that an applicant is a poor litigant nor any imposition of terms in connection therewith shall have any force or effect except in the particular cause and in the particular court with respect to which it is made.

In this section the effort is to lend thorough elasticity to the treatment of the situation. Appeals from adverse decisions by lower courts should be possible but rare. Hence the provision requiring a new finding by the public counsellor.

SEC. 10. If the public counsellor finds that the applicant is a poor litigant, he shall assign to the applicant an attorney or attorneys, hereinafter referred to as the conducting attorney or attorneys, to assist him in the conduct of the proceedings.

Assignments under this section would normally be made from the staff of a legal aid organization where such an organization is available. Otherwise it ought to be easy enough for the public counsellor to select competent conducting attorneys in view of the fact that reasonable compensation is guaranteed.

SEC. 11. A conducting attorney assigned by the public counsellor shall have the ordinary duties of an attorney at law to his client and may conduct the cause in the ordinary way with the following exceptions:

A. No poor litigant nor any conducting attorney assigned to such poor litigant under this act shall withdraw from, discontinue, default, settle, or compromise the cause without leave of court.

B. It shall not be lawful for any poor litigant to discharge any conducting attorney assigned hereunder or make claim against him for breach of duty, without written consent of the public counsellor in charge.

C. No conducting attorney assigned hereunder shall be at liberty to discontinue his assistance unless he satisfies the public counsellor or the court before which the cause is pending or is to be presented that he has some reasonable ground for so discontinuing.

D. Every conducting attorney assigned hereunder shall send annually to the public counsellor, in such form and at such date as the latter shall provide, a report showing the progress and result of all causes assigned to him for conduct.

E. Should the conducting attorney or the poor litigant discover at any time that the litigant is possessed of means beyond those previously disclosed he shall report the matter at once to the public counsellor.

The provisions of this section need little explanation. Among the applicants for poor persons' relief there are bound to be many affected to some degree by litigious mania and many others whose nature or experience has rendered them peculiarly suspicious. Also, of course, there will be persons whose code of morals is not high. None of the tendencies resulting from these characteristics should be without a check and it is the draftsman's hope that section 11 supplies the necessary checks.

SEC. 12. Every person appointed or assigned as a public counsellor, special master, reporting attorney, or conducting attorney hereunder shall have a duty to serve in such capacity. A person appointed or assigned as special master, reporting attorney, or conducting attorney may, however, be relieved from this duty upon his giving reasons satisfactory to the public counsellor or the judge (justice) appointing or assigning him; and any person serving in any of these capacities shall receive a reasonable fee, the amount and time or times of payment to be fixed for a reporting or conducting attorney by the public counsellor in charge, and for a special master by a judge (justice) of the appointing court: *Provided, however*, that no person in receipt of a salary as a public official shall be further paid for such services unless and except to the extent that the court having jurisdiction over the cause shall otherwise direct.

The reasons for the exceptions in this section are obvious enough. A clerk of court or a district or county attorney working for the public upon a regular salary may well be called upon to render further services of the kind required by this act without additional compensation.

SEC. 13. A person found by the public counsellor to be a poor litigant shall not be required to give security for court costs or fees and shall not be personally liable for costs or fees incurred in his cause, except as otherwise provided by terms imposed by the public counsellor or by the court which enters the final judgment in the cause. In cases where the public counsellor or such court shall find there was substantial misrepresentation or mistake in the information given by the applicant to the public counsellor or the reporting attorney and also in cases where the financial condition of the poor litigant has improved prior to final judgment such terms may require the poor litigant to pay all or any part of the costs, fees, and expenses previously paid or accrued.

Under this section it is possible for the public counsellor to make practically any kind of thoroughgoing or part-way arrangement with regard to the assumption of fees and expenses, according to what best fits the case in hand.

SEC. 14. All fees and compensation provided for by section 12 shall be payable from the poor litigants' fund hereinafter defined. All other necessary fees and

expenses for participation in the cause shall be approved by the public counsellor from time to time and shall be payable during the course of the litigation from said poor litigants' fund on his warrant or authorization. The public counsellor may grant the conducting attorney an appropriation from said fund for necessary fees and expenses. The conducting attorney shall render to the public counsellor from time to time such statement of fees and expenses as the latter may require. No party opposing any poor litigant shall be entitled to any payment from the poor litigants' fund on account of his costs or expenses.

In most cases where litigation of any substantial complication is necessary it will probably be advisable to give the conducting attorney a certain reasonable allowance for current expenses of the cause. This and the other financial sections may suggest that the operation of a relief scheme under the proposed statute would drain the public treasury. Legal aid experience happily indicates the contrary. Where efficient preliminary investigation weeds out undeserving or hopeless causes the retained and prosecuted causes ought to and will produce returns sufficient to keep the whole scheme in operation by means of a revolving fund necessitating only rare and small public appropriations. Because of the preliminary investigation of all causes it seems fair enough not to allow costs to a poor litigant's opponent. If the opponent has a deserving case it is perfectly possible for him to present it to the public counselor in the first instance as a reason for refusing to admit the applicant as a poor litigant.

SEC. 15. In each county the amount appropriated for poor litigants authorized to apply therein shall be held as a revolving fund entitled the poor litigants' fund. Gifts may be received and added to the fund, and such gifts may be made generally to the fund or limited to particular purposes.

This is little more than a dummy section. In its application to the financial machinery of each State it will have to be varied certainly in form, possibly in substance. It seems wisest to lay upon local governmental units the duty of greasing the financial wheels of this poor relief system. Let each county feel the reproach of being a bad place for poor litigants or enjoy the reputation of being a good one. As indicated in the commentary on the preceding section, the ultimate expense to the public should be light. It is more than likely that substantial private contributions would be made toward financing the plan here proposed. This would surely be true in such cases as the notorious Sacco-Vanzetti prosecution in Massachusetts, where many thousands of dollars have been contributed toward the defense fund.

SEC. 16. All money recovered by a poor litigant shall be paid in the first instance to the public counsellor, who shall distribute such money as follows:

A. He shall first reimburse the poor litigants' fund for all amounts expended for fees, compensation, and expenses in the conduct of the poor litigant's cause.

B. Out of the remaining money covered he shall make such, if any, additional payment into the poor litigants' fund as the court which enters the final judgment in the cause may direct. This sum shall be such as to place the reasonable cost of the poor litigant's participation in the cause upon a parity with the reasonable cost to a person not a poor litigant. Direction of such additional payment shall be entirely discretionary.

C. He shall pay over to the poor litigant the net remainder of the money recovered.

In cases where the recovery consist of property other than money no final judgment shall be entered until the payment of items A and B set forth above is made or secured to the reasonable satisfaction of the court or the public counsellor.

The litigation of poor persons so far as it is successful ought not to be carried on at preferential rates. This is a broad general proposition to which there will doubtless be exceptions. But on the whole the poor man ought to pay as much for winning his suit as does any other member of the community.

Where a recovery consists of property other than money it would be possible to impose a lien for the better enforcement of the provisions of this section. This, however, would further tangle titles of real and personal property. It is believed that the provisions regarding suspension of final judgment will adequately solve most difficulties.

SEC. 17. No person shall take or agree to take or seek to obtain from any poor litigant any payment, fee, profit, or reward either for reporting, for the conduct of the proceedings, or for out-of-pocket expenses, and so doing shall be a contempt of the court in which the cause is pending or proposed to be instituted. If any such payment, fee, profit, or reward shall be made, given, or promised the application or the finding, as the case may be, may be dismissed or revoked, in which case the applicant or poor litigant shall not afterwards be admitted into the same cause or any other proceedings as a poor litigant unless otherwise ordered.

The necessity of this section is obvious. Even if it were not so clear upon its face, English experience shows that such a provision must be part of any statute or rules aimed to assist penniless men in court. We are dealing with a class of people peculiarly likely to be victimized and peculiarly subject to the belief that anything in the world may be obtained by a judicious bribe.

SEC. 18. Each district (county) attorney shall annually on or before the — day of — prepare and furnish the governor with a written report respecting poor litigant's proceedings in his district (county), covering such matters as the governor may prescribe.

This needs no comment.

SEC. 19. Except as expressly provided otherwise by this act (chapter, title) the cause of poor litigants shall be conducted in the same manner as ordinary litigated causes. Wherever the foregoing provisions for remission of costs, fees, or security, or for assignment of attorneys, apply they shall supersede existing provisions for the same purposes.

This section resembles the preceding section 15 in that it will have to be recast in order to fit varying local situations.

SEC. 20. Nothing herein contained shall prevent any court from exercising its rule-making power consistently with the provisions of this act (chapter, title) for speeding the causes of the poor.

It seems highly desirable to preserve and encourage the use of the judicial rule-making power. The section inserted in the draft, like the draft section 15 above, will probably have to be recut for local application. In a number of jurisdictions where the rule-making power has been reduced practically to the vanishing point this section may have no substantial utility and should therefore be omitted.

APPENDIX B.—MASSACHUSETTS SMALL CLAIMS COURT ACT AND RULES OF COURT, EFFECTIVE JANUARY 31, 1921

GENERAL LAWS, CHAPTER 218

SECTION 43. The justices, or a majority of them, of all the district courts, except the municipal court of the city of Boston, shall from time to time make and promulgate uniform rules regulating the time for the entry writs, processes and appearances, the filing of answers and for holding trials in civil actions, and the practice and manner of conducting business in cases which are not expressly provided for by law, including juvenile proceedings and those relating to wayward, delinquent, and neglected children.

SMALL CLAIMS PROCEDURE

SEC. 21. The justices, or a majority of them, of all the district courts, except the municipal court of the city of Boston, shall make uniform rules applicable to said courts, and the justices of the municipal court of the city of Boston shall make rules applicable to that court, providing for a simple, informal, and inexpensive procedure, hereinafter called the procedure, for the determination, according to the rules of substantive law, of claims in the nature of contract or tort, other than slander and libel, in which the plaintiff does not claim as debt or damages more than \$35, and for a review of judgments upon such claims when justice so requires. The procedure shall not be exclusive, but shall be alternative to the formal procedure for causes begun by writ.

SEC. 22. The procedure shall include the beginning of actions with an entry fee of \$1 but without writ, and without requirement, except by special order of court, of other pleading than a statement to the clerk or an assistant clerk, who shall reduce the same to concise written form in a docket kept for the purpose. The procedure shall include notice by registered mail instead of the mode of service heretofore required, and shall include provisions for early hearing. The procedure may include the modification of any or all rules of pleading and practice, anything contained in other chapters, sections or acts notwithstanding, and may include a stay of the entry of judgment or of the issue of execution. The rules for the procedure may provide for the elimination of any or all fees and costs, and that costs shall be in the discretion of the court. In causes begun under the procedure, the court may on application for cause shown issue writs of attachment of property or person as in causes begun by writ.

SEC. 23. A plaintiff beginning a cause under the procedure shall be deemed to have waived a trial by jury and any right of appeal to the superior court and any right to a report to an appellate division; but if said cause shall be removed to the superior court as hereinafter provided, the plaintiff shall have the same right to claim a trial by jury as if the cause had been begun in the superior court. No other party to a cause under the procedure shall be entitled to an appeal or report. In lieu thereof, any such party may, prior to the day upon which he is notified to appear, file in the court where the cause is pending a claim of trial by jury, and his affidavit that there are questions of fact in the cause requiring trial, with specifications thereof, and that such trial is intended in good faith, together with the sum of \$3 for the entry of the cause in the superior court; and thereupon the clerk shall forthwith transmit such original papers or attested copies thereof as the rules for the procedure may provide, and the superior court may try the cause as transmitted or may require pleadings as in a cause begun by writ, but the cause may be marked for trial on the list of causes advanced for speedy trial by jury. Section 105 of chapter 231 shall apply in all district courts in causes begun under the procedure.

SEC. 24. The court may, in its discretion, transfer a cause begun under the procedure to the regular civil docket for formal hearing and determination as though it had been begun by writ and may impose terms upon such transfer.

SEC. 25. In any cause begun by writ which might have been begun under the procedure, the rules for the procedure may provide, or the court may by special order direct, that the costs to be recovered by the plaintiff, if he prevails, shall be eliminated in whole or in part.

NOTE.—The reference in section 23 to General Laws, chapter 231, section 105, relates to the right of a party claiming removal, in an action by or against a number of parties, in which separate judgments are authorized by General Laws, chapter 231, sections 2, 4, to specify in his claim of jury trial the parties as to whom such trial is claimed, whereby the case may be removed as to such parties but the district court will retain jurisdiction as to the remainder. There is no express provision for removal by one of a number of purely joint defendants; probably, as in appeals (General Laws, ch. 231, sec. 97), the whole case is removed.

RULES FOR SMALL CLAIMS PROCEDURE

RULE 1. The plaintiff, or his attorney, shall state the nature and amount of his claim to the clerk, who, after due inquiry, shall cause the claim to be reduced to writing in the docket, in concise, untechnical form, and to be signed by the plaintiff or attorney. The signature shall be deemed the beginning of the action. If the claim involves more than three items, the plaintiff or attorney shall deliver to the clerk a fair list of such items, numbered consecutively. If the clerk deems the statement of claim insufficient to make a prima facie case, the court, at the request of the plaintiff or attorney, shall decide whether such claim shall be received.

NOTE TO RULE 1

(a) For the meaning of "attorney" and "docket," see rule 12.
 (b) In using the printed docket cards prepared by the committee on law and procedure, the main card for the record of the case should be numbered in the upper right corner. Where there are two defendants, a second printed docket card bearing the same number with "A" added should be used to record the name and addresses of, and the notice to, the second defendant. A third defendant may be treated in a similar way. Two plaintiffs with a common place of business may be recorded on the main docket card; a second card "A" may be used for other plaintiffs.

(c) The amount claimed should be stated in unliquidated claims as well as others, for jurisdictional purposes, although the court must assess damages even after default.

(d) The list of items delivered to the clerk has several uses. Whether incorporated into the claim, and therefore into the docket and record, by reference, or not, it serves to show to the defendant, upon inquiry of the clerk, the details of the claim against him; and it assists the court, at the hearing, in arriving at the facts. It may furnish the means of amending the claim, if amendment should be needed.

Where the list of items is short, the clerk may reproduce it in substance in the claim written on the docket card, thus avoiding the permanent preservation of a separate list; to file nothing permanently except the docket card, is an ideal to be attained when practicable. Longer lists of items, when it is deemed necessary to have them become part of the claim, may be incorporated therein by reference, under rule 12, as, e. g., "See list of items filed."

(e) The claim should be reduced to writing in the docket in a form sufficient to apprise the defendant of its nature, to furnish the basis of an intelligible judgment, to preclude any further suit upon that claim, and, when practicable, to show whether the claim is within the class of claims for labor or necessities upon which equitable process may be based. More than that is unnecessary.

The following are suggestions for stating claims:
 "Claim: Defendant owes plaintiff \$27.83 for groceries and household goods, sold him between October 16, 1920, and December 28, 1920, inclusive." (If the list of items is to be made a part of the claim, add "See list of items filed.")

"Claim: Defendant owes plaintiff for rent of apartment 10 Allston Street, Boston, for month ending October 31, 1920, \$50, less \$30 paid; balance due, \$20. Interest on same, November 1, 1920, to January 1, 1921, \$0.20. Total claim, \$20.20."

"Claim: Defendant, on or about December 13, 1920, assaulted and beat plaintiff; damages claimed, \$35."

"Claim: Defendant, on or about December 28, 1920, converted plaintiff's clock, value \$10, and desk, value \$20. Total claim, \$30."

RULE 2. The plaintiff or attorney shall also state to the clerk, the plaintiff's and the defendant's place of residence, usual place of business and place of employment, or such thereof as the clerk may deem necessary, including the street and number, if any; and the clerk shall note the same in the docket. The clerk shall give to the person signing the claim a memorandum of the time and place set for the hearing. Summonses for witnesses, if requested, will be issued by the clerk, without fee.

NOTE TO RULE 2

(a) For the meaning of "attorney," see rule 12.
 (b) The defendant's place of residence or usual place of business, and in some cases the plaintiff's place of residence or usual place of business, must be shown to determine the venue. (General Laws, ch. 223, sec. 2.)

(c) Most defendants have no "place of business." *Hanley v. Eastern Steamship Corporation* (221 Mass. 125). Often a notice at the place of employment would be wholly effective. The clerk should use discretion as to the address to which he sends the notice, and if he is in doubt should send notices to more than one address.

(d) The memorandum given to the person signing the claim should state that if the claim is supported by witnesses, books of account, or documents they should be produced at the hearing; and also that in case of an unliquidated claim the amount of damage must be proved by the plaintiff at the hearing whether the defendant defends or not.

RULE 3. The clerk shall mail to the defendant, at one or more of the addresses supplied by the plaintiff, as the clerk may deem necessary or proper, by registered mail, return receipt requested, the expense being prepaid by the plaintiff, a notice signed by the clerk, bearing the seal of the court and bearing teste like a writ, which, after setting forth the name of the court, shall read substantially as follows:—

"To (here insert name of defendant)

"(Here insert name of plaintiff) asks judgment in this court against you for (here insert the amount claimed in dollars and cents) upon the following claim (here insert the nature of the claim as it appears on the docket; but no list of items need be included.)

"The court will give a hearing upon this claim at (here insert the location of the courthouse and the room therein, as may be necessary) at (here insert the hour) o'clock in the (here insert "forenoon" or "afternoon" as the case may be) on (here insert the date, including the day of the week, as may be prescribed by general or special order of the court.)

"If you deny the claim, in whole or in part, you must, not later than (here insert the date, including the day of the week, of the second day before the day set for the hearing), personally or by attorney state to the clerk, orally or in writing, your full and specific defense to said claim, and you must also appear at the hearing. Unless you do both, judgment may be entered against you by default. If your defense is supported by witnesses, account books, receipts or other documents, you should produce them at the hearing. Summonses for witnesses, if requested, will be issued by the clerk, without fee.

"If you admit the claim, but desire time to pay, you must, not later than (here insert the date including the day of the week, of the second day before the day set for the hearing), personally or by attorney state to the clerk, orally or in writing, that you desire time to pay, and you must also appear at the hearing and show your reasons for desiring time to pay."

The clerk shall note in the docket the mailing date and address, the date of delivery shown by the return receipt and the name of the addressee or agent signing the receipt.

Notice shall be valid although refused by the defendant and therefore not delivered.

If the notice is returned undelivered, without refusal by the defendant, or if in any other way it appears that notice has not reached the defendant, the clerk shall issue, at the expense of the plaintiff, such other or further notice as the court may order.

NOTE TO RULE 3

(a) The court should establish hearing days by general order, so that the clerk may set the hearing.

(b) The clerk is expected to use all reasonable means of making the notice effective. In cases of doubt notice should be sent to more than one address. The docket cards prepared by the committee on law and procedure provide an easy method of recording the address to which each notice is sent and the result.

If the usual notice by registered mail fails, the court may order service of a notice by registered mail deliverable to addressee only or by a sheriff or constable.

(c) Return receipts are not part of the record. (Rule 12.) The material facts shown by them are to be noted on the docket card. If the clerk desires to keep the return receipts they may be numbered to correspond with the cases and kept in any card tray or elsewhere.

RULE 4. A defendant, unless the court shall otherwise order, shall be defaulted unless he shall, personally or by attorney, not later than the second day before the day set for the hearing, state to the clerk, orally or in writing, his defense to the claim. A court sitting in more than one city or town may prescribe by general order other times for stating defenses, and may vary the form of notice to the defendant accordingly. The clerk shall enter the substance of the defense in the docket, and the docket entry shall be deemed the answer. The answer shall state fully and specifically, but in concise and untechnical form, what parts of the claim are contested, and the grounds

of such contest. Demurrers, dilatory pleas and the answer of general denial are prohibited. No case shall be deemed ripe for judgment before the time set for the hearing.

NOTE TO RULE 4

(a) While the English county courts usually require no answer, it is felt to be unjust to require plaintiffs to attend hearings prepared to try claims that will often prove to be undefended. The defense may be stated orally to the clerk or mailed in season to reach the clerk on the specified day by the defendant or attorney, so the requirement will not be burdensome. For the meaning of "attorney," see rule 12.

(b) Demurrers and other technical incidents or results of imperfect pleading have been intentionally avoided. The creation of technical questions of pleading would be undesirable. Yet it is desirable that claims and answers should give ample notice of the real claim or defense.

A party who does not make the fair disclosure required by these rules risks the imposition of discretionary costs under rule 9, and that liability seems sufficient.

(c) Suggestions of answers are:

"ANSWER. Defendant paid \$17 on claim and owes the balance."

"ANSWER. Defendant owes for the coat, but the hat was never delivered to him."

"ANSWER. The part of claim accruing before January 1, 1915, barred by statute of limitation. The later part contracted by wife without authority."

"ANSWER. Defendant struck plaintiff in self-defense."

"ANSWER. Plaintiff agreed to do whole job for \$15. Did not do workmanlike job. Did not use proper paint."

"ANSWER. Defendant owes items 1 and 3. Item 2 was not up to sample, and was not merchantable, and was returned by defendant. Item 4 was never ordered and was returned by defendant." [This answer is adapted to a case where a list of items is incorporated into the claim.]

RULE 5. The defendant, within the time for answer, may, in the manner provided by rules 1 and 2, claim any set-off or counterclaim within the jurisdiction of the court in civil cases. Upon the making of such claim by the defendant, the clerk shall give a notice to the plaintiff, at the expense of the defendant, similar to that provided by rule 3, and shall postpone the hearing of the original claim until the time set for hearing the defendant's claim, and shall notify the parties accordingly. The defendant's claim shall be answered within the time and in the manner provided by rule 4, and the penalties upon defendants provided by said rule shall apply to plaintiffs in respect to claims by a defendant. The original claim, and the claim of set-off or counterclaim, shall be deemed one case.

NOTE TO RULE 5

(a) If the plaintiff chooses to adopt this procedure it is submitted that he adopts it subject to its rules for set-off and counterclaim. See *Aldrich v. E. W. Blatchford & Co.* (175 Mass. 369). The defendant, seeking to avail himself of this set-off rather than a set-off of judgments which the courts have inherent power to allow (*Franks v. Edinberg*, 185 Mass. 49), can have, it is submitted, no cause to complain if the result happens to be unfavorable.

(b) A set-off or counterclaim may be recorded upon a printed docket card bearing the number of the case with "B" added.

RULE 6. The court may at any time allow any claim or answer to be amended. Interrogatories shall not be filed, nor depositions taken, except by leave of court.

NOTE TO RULE 6

(a) Amendments may be made without any written motion, and the amendment may be noted on the back of the docket card.

(b) Interrogatories and depositions, if allowed, would delay cases intended to be speedily heard.

Rule 7. Witnesses shall be sworn; but the court shall conduct the hearing in such order and form and with such methods of proof as it deems best suited to discover the facts and to determine the justice of the case. If the plaintiff does not appear at any time set for hearing, the court may dismiss the claim for want of prosecution, or enter a finding on the merits for the defendant, or make such other disposition as may be proper.

NOTE TO RULE 7

(a) See *Com. v. Rosenblatt* (219 Mass. 197).

(b) Under small claims procedure the judge is an investigator, not merely an umpire. He, rather than counsel or parties, is in active charge of the proceedings. To allow hearings to be delayed or postponed on account of engagements of counsel is contrary to the spirit of the statute and subversive of the procedure.

(c) Laymen presenting their own cases can not be expected to comply with all the technical rules of evidence and trials that the desire to prevent prejudice in jury trials has developed. "The greatest and most remarkable offshoot of the jury was that body of excluding rules which chiefly constitute the English 'law of evidence.' * * * Sharply and technically used, these rules enable a man to go far in worrying an in-

perienced or ill-prepared adversary and in supporting a worthless case." (Thayer, *Preliminary Treatise on Evidence*, 180, 528.) Only the essential principles of justice in procedure are useful to a judicial investigator without a jury.

(d) Where the plaintiff without cause fails to prosecute his claim it is believed that the court should have power to enter a judgment on the merits and end the controversy. (See *Carpenter, etc., v. N. Y., N. H. & H. R. R. Co.*, 184 Mass. 98; *Kyle v. Reynolds*, 211 Mass. 110.) This power should not be exercised, however, except to prevent oppression.

RULE 8. No process of mesne attachment shall issue under this procedure, except upon the order of the court. Such order shall state the amount of the attachment and the property or credits to be attached. The form of the process shall be substantially that required for supplementary process in ordinary civil actions.

RULE 9. The actual cash disbursements of the prevailing party for entry fee, mailing fees, witness fees and officers' fees shall be allowed as costs. No other costs shall be allowed either party, except by special order of the court. The court shall have power in its discretion to award costs, in a sum fixed by the court, not exceeding \$25 (exclusive of such cash disbursements, or in addition thereto) against any party, whether the prevailing party or not, who has set up a frivolous or vexatious claim or defense, or has made an unfair, insufficient or misleading answer, or has otherwise sought to hamper a party or the court in securing a speedy determination of the claim upon its merits; and to enter judgment and issue execution therefor, or set off such costs against damages or costs, as justice may require.

NOTE TO RULE 9

The discretionary power to award costs will tend to make justice speedy and efficient and to prevent intentional delay and trickery. Where the discretionary costs go against the losing party they will be included in the judgment. Where they go against the prevailing party they may be set off or made the subject of a separate judgment and execution—not a novelty in our law. (General Laws, ch. 261, secs. 3, 22; *Wixon v. Marcus*, 174 Mass. 67.)

RULE 10. The court may order that the judgment shall be paid to the prevailing party, or, if it so order, into court for the use of the prevailing party, at a certain date or by specified installments, and may stay the issue of execution and other supplementary process during compliance with such order. Such stay shall at all times be subject to being modified or vacated.

NOTE TO RULE 10

After the hearing on the merits, or after default on the merits, the court may, at the time set for the hearing, consider the question of stay of execution. Often the whole defense, in ordinary civil actions, is caused by a desire to secure a stay of execution; if such stay is authorized it will tend to secure speedy justice without oppression. The court need not feel bound to consider a stay asked by a defaulted defendant who has not asked for a stay according to the terms of the notice to him. (Rule 3.)

RULE 11. The court may at any time upon motion, and after such notice, by mail or otherwise, as it may order, for cause shown vacate any judgment entered under this procedure, for want of actual notice to a party, for error, or for any other cause that the court may deem sufficient, and may stay or supersede execution. The court may also order the repayment of anything collected under such judgment, and may enter judgment and issue execution therefor; but no order shall affect the title of any bona fide holder for value under said judgment. Costs in an amount fixed by the court not exceeding \$25 may be awarded, in the discretion of the court, for or against either party to a motion to vacate judgment, and judgment may be entered and execution may be issued therefor, and any action by the court may be made conditional upon the payment of such costs or the performance of any other proper condition.

NOTE TO RULE 11

The vacation of judgment "on motion," i. e., by application in the same case, is much more simple than existing methods. No writing is required, only an entry in the docket. (Rule 12.) Proceedings upon such a motion may be recorded upon an unprinted docket card bearing the number of the case with "C" added.

This rule covers the cases within the scope of motions and petitions to vacate judgment and writs and bills of review. (See General Laws, ch. 250.) While broad and simple, the provision for discretionary costs will prevent its abuse.

This rule does not prevent the court from correcting its record, of its own motion, under its inherent power, to conform to the truth. (*Karrick v. Wetmore*, 210 Mass. 578; *Hathaway v. Congregation Ohab Shalom*, 216 Mass. 539; *Waucantuck Mills v. Magee Carpet Co.*, 225 Mass. 31; *Wetmore v. Karrick*, 205 U. S. 141.)

RULE 12. The docket shall consist of cards, envelopes, or folders, and such other documents as may be incorporated therein by reference. Nothing shall

be deemed part of the record except the docket entries. Any written papers delivered to the clerk shall be merely authority for the clerk to enter the substance thereof on the docket and such papers need not be filed or preserved. The word "clerk" in these rules shall include an assistant clerk. The word "attorney" in these rules shall mean an attorney at law, a person specially authorized in writing to prosecute or defend the claim, one of a number of partners or joint plaintiffs acting for all, or an officer, manager, or local manager of a corporation acting for it. Notice to such attorney for a party shall be equivalent to notice to such party.

NOTE TO RULE 12

(a) The accumulation of a mass of claims, answers, motions, letters and other papers, drawn by the parties, would be a nuisance. Even the return receipt does not become part of the docket or record. A list of items becomes part of the docket and record only when incorporated into the claim by reference, as, e. g., "See list of items filed." To file nothing permanently except a single docket card is an ideal to be attained when practicable.

(b) The use of the 5 by 8 printed docket cards prepared by the committee on law and procedure and printed by the Library Bureau, 43 Federal Street, Boston, is recommended. These cards are printed from plates owned by the Association of Justices of District Courts. The name of the particular court ordering cards is printed in the margin. Filing envelopes, 5 by 8, to be numbered like the docket cards, for the temporary or permanent filing of lists of items, etc., are also useful. Filing devices for such cards and envelopes are readily procurable.

(c) In small courts the docket cards themselves, filed with any accompanying envelopes by the names of the defendants, may constitute a sufficient index. In larger courts the docket cards and any accompanying envelopes would better be filed and numbered chronologically, with a card index for plaintiffs and defendants.

RULE 13. The venue shall be the same as in ordinary civil actions. Rules of practice in ordinary civil actions, which are applicable to this procedure and not inconsistent with these rules, shall apply to cases under this procedure.

RULE 14. Upon removal of a cause to the superior court, the original docket entries, or, in case of removal by some of several defendants, an attested copy thereof, shall be transmitted to the clerk of the superior court.

RULE 15. In actions of contract or tort, other than slander and libel, hereafter begun by writ, in which the recovery of debt or damages does not exceed \$35, no costs other than the taxable cash disbursements shall be recovered by the plaintiff, except by special order of the court for cause shown.

APPENDIX C.—WORK OF LEGAL AID ORGANIZATIONS

The figures have been secured from the reports of such organizations as publish reports and by direct correspondence with other organizations. In a few instances where exact figures were not available reliable approximations furnished by responsible officials have been used. The detailed statistics begin with the year 1905 and continue through 1923. For the few organizations that existed prior to 1905, only the total figure to 1905 is stated. The detailed annual figures for such organizations can be found in the tables appended to "Justice and the Poor," published by the Carnegie Foundation for the Advancement of Teaching, copies of which may be obtained by request addressed to the foundation at 522 Fifth Avenue, New York City. Where the fiscal year of an organization does not coincide with the calendar year, the figure has been placed in the column opposite the later calendar year; thus a figure for a fiscal year of 1922-23 has been placed in the column opposite the calendar year 1923.

The first three tables, giving figures for separate organizations, include only those organizations for which we have data extending over a considerable number of years. These are followed by a summary table which includes figures for all organizations combined, so far as data are available.

NUMBER OF CASES RECEIVED BY SPECIFIED LEGAL AID ORGANIZATIONS

Year	Balti- more	Boston	Bufo- lo	Chicago Legal Aid Bureau	Chi- cago Jewish Legal Aid De- part- ment	Cin- cin- nati	Cleve- land	De- troit	Du- luth	Kan- sas City	Los An- geles Public De- fender	Mil- wau- kee	Min- neap- olis Legal Aid Bure- au	New Or- leans	New York Legal Aid Society	New York Educa- tional Alli- ance	New York National Deser- tion Bure- au	Phila- del- phia	Pitts- burgh	Ro- ches- ter	St. Louis
Prior to 1905.....		1,405		106,017	1,471										185,544	7,187		566			
1905.....		664		2,929	823										21,372	6,371		701			
1906.....		707		4,965	811		456								23,175	5,431		1,278			
1907.....		1,085		4,990	1,358		606								26,399	6,993		1,165			
1908.....		996		6,169	1,478		907								31,036	7,737		1,422	197		
1909.....		1,107		5,102	1,666		1,208								30,105	7,445		1,333	246		
1910.....		1,175		6,282	2,888		1,158								32,449	4,324		1,477	348		
1911.....		1,114		8,442	3,124		1,382	73		2,313					33,809	4,402	852	1,816	375	157	
1912.....	287	1,041	630	13,904	3,515	885	1,533	70		5,406					37,796	7,687	1,091	2,514	378	229	723
1913.....	499	1,154	966	15,409	4,167	1,179	2,435	117	607	5,354	3,199		1,039		39,189	2,584	1,097	3,476	506	250	2,057
1914.....	687	1,352	1,384	16,121	4,747	1,509	3,925	148	2,294	6,573	10,391		1,965		40,430	7,997	1,093	3,874	649	320	1,859
1915.....	504	2,229	1,257	10,674	2,537	1,688	5,805	206	4,564	6,202	10,277		1,965	50	42,000	6,715	1,101	4,290	771	353	1,905
1916.....	376	2,608	1,516	10,697	4,685	1,698	4,946	292	5,629	5,270	8,848	297	3,029	150	41,646	5,788	957	4,845	684	382	1,235
1917.....	301	4,196	2,089	12,951		1,762	6,580	410	4,571	5,270	6,373	1,174	2,506	74	44,620	6,375	898	4,972	(1)	422	1,314
1918.....	360	5,178	2,019	11,265		1,446	6,624	493	2,418	5,238	6,007	1,183	1,094	765	38,287	4,992	1,252	5,026	(1)	871	1,426
1919.....	243	4,770	2,417	8,293		1,107	6,781	366	2,502	6,649	5,917	1,352	1,077	1,196	34,355	4,397	922	5,301	(1)	734	1,376
1920.....	275	4,646	2,047	8,432		798	7,286	2,364	2,287	5,092	6,263	1,410	1,460	1,021	30,466	3,986	1,009	6,991	(1)	743	1,351
1921.....	310	5,233	2,815	12,491		892	7,409	3,112	2,424	4,896	8,078	1,411	1,496	1,027	26,294	4,430	1,391	13,404	(1)	831	1,313
1922.....	274	6,732	3,186	14,254	690	844	7,155	5,450	2,840	4,013	9,630	1,549	1,701	1,223	30,128	4,706	1,337	12,231	(1)	800	1,531
1923.....	216	6,742	3,416	16,227	790	1,016	5,948	2,803	2,958	4,163	14,000	1,782	1,559	790	29,270	4,630	1,309	12,500	350	1,056	14,457
Total.....	4,332	54,184	23,742	295,604	34,750	14,824	72,144	15,904	33,094	66,439	88,983	10,158	18,831	6,296	818,370	114,177	14,314	89,182	7,204	7,306	30,547

¹ No exact record; about 2,700 during 1917 to 1922, inclusive.

WORK OF LEGAL AID ORGANIZATIONS

AMOUNT OF MONEY COLLECTED FOR CLIENTS BY SPECIFIED LEGAL AID ORGANIZATIONS

Year	Boston	Buffalo	Chicago Legal Aid Bureau	Chicago Jewish Legal Aid Bureau	Cincinnati	Cleveland	Detroit	Duluth	Kansas City	Los Angeles Public Defender	Milwaukee	Minneapolis	New York Legal Aid Society	New York Educational Alliance	New York National Deserotion Bureau	Philadelphia	St. Louis
Prior to 1905	\$8,416		\$125,898										\$1,121,300	\$1,070		\$724	
1905	5,917		3,857	\$6,548									61,140	1,649		909	
1906	8,100		7,206	9,794									72,633			489	
1907	8,888		7,009	19,198									90,286			1,134	
1908	5,760		9,503	23,354									86,063	2,000		974	
1909	7,748		5,954	21,006									100,074			1,323	
1910	6,686		7,845	28,516									101,724	13,348		2,076	
1911	6,686		9,048	22,192			\$610		\$6,046				122,838	10,822	\$1,000	3,257	
1912	6,131		17,200	19,740			820		8,904				142,429	12,164	857	5,046	\$1,852
1913	3,989		22,861	26,679	\$1,175		1,151	\$5,230	10,962				138,046	7,125	6,191	3,987	8,457
1914	4,005		29,066	30,623	1,659		2,751	8,086	10,140				134,895	14,413	6,330	6,676	4,893
1915	25,195	\$948	18,528	29,269	2,036		1,202	8,927	7,705	\$26,273			139,327	14,566	10,894	7,073	7,390
1916	22,808	2,881	21,529	32,787	2,271		1,776	16,408	6,914	23,183		\$546	128,005	16,537	12,511	11,286	5,109
1917	47,556	3,128	22,508		2,229	\$2,705	2,587	21,964	5,143		1,892	5,184	135,221	15,546			
1918	52,180	4,196	36,460		1,843	6,136	5,757	25,363	3,901	21,678	1,886	5,018	112,238	12,598			
1919	90,542	4,153	28,287		2,482	11,647	2,104	35,490	10,542	19,635	5,569	4,513	130,859	14,100			7,910
1920	54,046	4,153	32,157		2,461	18,455	10,300	29,569	10,520	15,844	4,504	3,531	147,371	16,224	28,800		8,500
1921	44,457	4,153	58,448		2,194	19,234	12,848	37,129	14,896	22,939	9,157	2,499	145,893	17,512	34,700	19,074	6,297
1922	26,524	31,048	53,884	3,317	2,475	9,404	11,300	27,159	10,965	30,583	11,638	2,264	171,656	22,199	46,800	21,341	6,043
1923	44,260	27,062	68,428	4,206	2,825	30,442	12,500	32,585	5,345	38,308	14,253	4,726	142,715	21,897		18,173	6,170
Total	479,894	82,322	585,656	277,229	23,650	98,023	65,706	247,910	112,283	198,443	49,445	49,823	3,424,713	213,770	148,083	103,543	62,621

OPERATING EXPENSE OF SPECIFIED LEGAL AID ORGANIZATIONS

Year	Boston	Buffalo	Chicago Legal Aid Bureau	Chicago Jewish Legal Aid Bureau	Cincinnati	Cleveland	Detroit	Kansas City	Los Angeles Public Defender	Milwaukee	Minneapolis	New York Legal Aid Society	New York Educational Alliance	New York National Deser-tion Bureau	New York Volun-tary De-fenders Com-mittee	Phila-delphia	Pitts-burgh	Roch-ester	St. Louis
Prior to 1905...	\$5,749		\$126,897	\$13,178								\$191,564	\$33			\$2,457			
1905.....	1,500		4,224	3,900								28,553	2,903			1,654			
1906.....	1,788		7,457	4,600		\$1,064						32,116	3,960			2,362			
1907.....	2,704		8,080	6,666		1,523						38,682	3,061			1,904			
1908.....	2,469		8,253	7,679		1,409						41,485	3,102			2,137			
1909.....	2,560		8,361	10,020		1,864						41,641	5,381			1,685	\$658		
1910.....	2,899		8,991	12,175		2,362	\$500					39,409	6,189			1,713	1,046		
1911.....	3,741		12,851	14,518		2,362	500	\$1,328				43,114	6,740			1,846	933		
1912.....	4,567	\$1,742	19,180	19,859	\$492	2,298	500	5,394				46,194	7,053	\$5,000		1,846	1,178	\$251	
1913.....	5,030	2,015	24,826	19,075	1,220	2,603	500	5,107	\$4,641		\$1,324	45,200	3,765	8,973		2,295	1,799	619	
1914.....	5,331	2,158	26,853	22,309	1,238	1,841	500	5,283	18,831		2,940	44,140	7,388	9,381		3,344	1,295	688	\$2,803
1915.....	5,396	2,336	17,593	23,800	1,209	3,248	500	5,609	21,613		2,231	45,609	6,870	10,446		4,316	1,615	989	2,381
1916.....	6,498	2,372	18,318	23,300	1,359	3,210	500	5,144	21,199	\$877	3,435	44,648	6,959	11,699		4,437	1,882	1,313	5,857
1917.....	8,625	2,702	19,330		1,800	4,013	672	4,226	21,133	3,017	3,971	45,000	7,457	11,848	\$13,474		1,791	1,400	
1918.....	11,248	2,585	25,493		1,800	4,666	696	4,225	21,846	4,323	3,657	43,989	7,347	10,779	17,304		1,799	2,560	
1919.....	14,139	6,250	14,153		2,300	5,700	650	5,878	18,496	5,048	4,489	47,051	7,696	16,746	18,000			3,200	6,611
1920.....	18,548	4,150	18,855		2,300	13,360	6,266	6,180	20,982	5,447	5,702	57,277	6,895	17,980	18,000		2,116	3,600	7,479
1921.....	20,246	9,020	21,718		2,400	17,714	8,180	7,169	24,806	5,594	5,866	61,739	6,661	16,149	18,000	27,000	2,738	4,100	8,167
1922.....	29,836	12,216	21,305		2,500	17,582	9,301	7,666	24,749	5,870	6,140	63,968	7,656	16,475	18,000	27,935	1,913	4,100	8,168
1923.....	31,763	13,506	25,670		2,500	19,035	10,953	8,400		6,043	6,402	63,603	7,656	16,718	18,000	28,555	1,685	4,350	8,500
Total.....	184,637	61,052	438,408	183,067	21,118	105,854	40,218	75,845	108,296	36,249	46,157	1,064,982	114,752	159,710	120,778	116,150	21,671	27,994	49,966

WORK OF LEGAL AID ORGANIZATIONS

SUMMARY OF WORK OF LEGAL AID ORGANIZATIONS IN THE UNITED STATES,
BY YEARS

[Figures in this table include organizations other than those shown in the detailed tables preceding]

Year	Number of cases received ¹	Amounts collected for clients ¹	Operating expenses ¹
Prior to 1905.....	302, 633	\$1, 273, 178	\$339, 878
1905.....	33, 352	80, 020	42, 734
1906.....	37, 663	99, 049	53, 347
1907.....	42, 596	126, 515	62, 620
1908.....	50, 943	129, 562	66, 534
1909.....	48, 212	136, 105	72, 170
1910.....	50, 258	160, 195	75, 264
1911.....	57, 860	182, 499	93, 194
1912.....	77, 700	215, 143	119, 992
1913.....	85, 783	243, 384	133, 433
1914.....	109, 289	272, 833	159, 863
1915.....	113, 539	323, 309	166, 640
1916.....	116, 325	345, 435	181, 165
1917.....	108, 594	266, 373	153, 559
1918.....	99, 192	289, 859	167, 307
1919.....	102, 289	307, 813	195, 595
1920.....	96, 034	389, 835	226, 079
1921.....	111, 404	456, 160	282, 359
1922.....	130, 585	499, 684	328, 651
1923.....	150, 234	498, 846	331, 326
Total, United States.....	1, 924, 425	6, 355, 797	3, 256, 518
<i>Canada</i>			
1922.....	178	468	1, 347
1923.....	892		

¹ Figures are for those organizations which reported.

APPENDIX D.—ORDINANCES ESTABLISHING MUNICIPAL LEGAL AID BUREAUS

The Kansas City Municipal Legal Aid Bureau was created by the board of public welfare, acting under its general powers and without any express ordinance. Most of the public bureaus, however, have been created by special ordinances. The following comparisons are taken from the Dayton ordinance of November 17, 1915; the Hartford ordinance of January 1, 1917; the Omaha ordinance of December 7, 1915; the St. Louis ordinance of July 14, 1915; and the Philadelphia ordinance of 1920.

These ordinances may be used as helpful precedents by municipalities that are considering the creation of a public legal aid bureau.

For persons interested in the establishment of a private legal aid society the constitution and by-laws of the New York Legal Aid Society (Appendix E) may serve as a model.

PURPOSE OF BUREAU

Dayton.—Render legal aid and assistance to indigent persons worthy thereof who are unable to secure same elsewhere and promote measures for their protection in such cases and under such conditions as in the judgment of the director of public welfare may justify such assistance.

Philadelphia.—Provide legal aid and assistance for those who are in need thereof and who, for financial reasons, are unable to retain private counsel.

Hartford.—To furnish legal aid and advice to any person financially unable to employ counsel, who has a proper case, and who is a resident of the city or who has a claim accrued or cause of action against any corporation or citizen while claimant was resident in said city.

Omaha.—To furnish aid to worthy indigent persons in the city to secure their legal rights in court.

St. Louis.—To provide legal aid to all worthy people of St. Louis who, because of their financial inability to pay therefor, are unable to procure necessary legal advice or services.

DUTIES OF ATTORNEY

Dayton.—Shall keep receipt of all sums collected; deposit in bank designated by director of public welfare; keep on file all records of financial transactions; make report on 10th day of each month to the director of public welfare, and also file financial report with director of finance.

Philadelphia.—Chief of bureau shall have general oversight and direction of legal aid work of city, subject to approval of director of public welfare.

St. Louis.—Attorney to be in charge of and supervise the offices and legal work of the bureau; shall have correct book showing business done and money received; shall make reports as required by director of public welfare.

QUALIFICATIONS OF ATTORNEY

Dayton.—Must give bond furnished by surety company approved by director of public welfare.

St. Louis.—Attorney shall be licensed and engaged in practice of law for five years prior to appointment. Required to give bond for \$5,000.

EMPLOYEES AND OFFICERS

Dayton.—Attorney to be appointed. To be paid salary and have such assistance, office equipment, stationery, and allowance for all expenses as shall be provided by the commission of the city of Dayton.

Philadelphia.—Chief of bureau appointed by director of public welfare. Counsel assigned by city solicitor. Other employees appointed by director of public welfare subject to existing laws.

Omaha.—Second assistant city attorney is designated as the law officer to have charge of said work under the direction of said board.

St. Louis.—Attorney, assistant attorney, investigator, clerk, and stenographer appointed by director of public welfare.

APPENDIX E.—CONSTITUTION AND BY-LAWS OF NEW YORK LEGAL AID SOCIETY

CONSTITUTION

ARTICLE I.—*Name and purpose*

The name of the society shall be "The Legal Aid Society."

The purpose of this society shall be to render legal aid gratuitously, if necessary, to all who may appear worthy thereof, and who are unable to procure assistance elsewhere, and to promote measures for their protection.

ARTICLE II.—*Membership*

The society shall be composed of the following classes of members:

Life members, who pay \$1,000 or more in any one year;

Patrons, who pay \$100 a year;

Special members, who pay \$75 or \$50 a year;

Sustaining and retaining members, being business houses and law offices, respectively, which pay \$50 a year, or \$25 a year if within the description of the junior grade, as hereinafter defined;

Regular members, who pay \$20 a year;

Associate members, who pay \$10 a year; and

Associate members, junior grade, who pay \$5 a year.

Sustaining or retaining memberships may be held by business houses or law offices, respectively, which shall pay \$50 a year: *Provided, however*, That business houses which have not been established for more than 10 years and law offices in which no partner is of more than 15 years' standing at the bar may hold such memberships, as of the junior grade, by paying \$25 a year.

Application for membership shall be reported to the board of directors for action; and the board shall have power, by special order, to admit to membership as of a junior grade any applicant otherwise eligible only to membership as of a senior grade and to admit a firm, office, or business house to a class of membership otherwise open only to individuals.

Retaining or sustaining members, special members, patrons, and life members shall each be entitled to require that the society shall render legal aid to some designated person whenever requested by such member, or shall make a written report to such member explaining its declination to comply with his request.

ARTICLE III.—*Election and officers*

The management of this society shall be vested in a board of 24 directors.

This board shall be divided into three classes of eight members each. Eight directors shall be elected at each annual meeting to serve for a term of three years.

Should a director absent himself from three consecutive meetings without a satisfactory excuse he may be considered to have resigned, and the vacancy shall be filled by the board.

The officers shall consist of a president, a vice president, a secretary, and a treasurer, all of whom shall be directors; and in addition such honorary vice presidents as the board may elect.

The officers shall be elected by ballot at the first meeting of the board after the annual meeting of the society.

The board shall have power to fill vacancies occurring in its own number.

The directors may employ the services of an attorney and such other assistants as may be necessary to conduct the work of the society.

ARTICLE IV.—*Meetings*

The annual meeting of this society shall be held in the month of February, for the election of directors, for the reception of reports, and the transaction of such other business as may be brought before the meeting.

Special meetings of the society may be called at any time by the board of directors, or shall be called by the secretary upon the written request of 10 members, setting forth the object of such special meeting.

At least one week's notice shall be given to the members of any annual or special meeting, and 10 members shall constitute a quorum thereat.

ARTICLE V.—*Amendments*

This constitution may be amended as follows:

(1) By resolution of a two-thirds vote at a meeting of the directors, at which at least 10 members shall be present, notice of such amendment having been given at a previous stated meeting of the board, and a copy thereof sent to each member of the board at least five days previous to the meeting at which it is to be considered, or (2) on recommendation of the directors by an affirmative vote of two-thirds of all members present at a meeting of the society, provided the proposed amendment has been stated in the notice of the meeting.

BY-LAWS

ARTICLE I.—*Meetings*

Regular meetings of the board of directors shall be held each month except June, July, and August.

Special meetings may be called by the president, the vice president, or upon the written request of four directors. No special meeting shall be called without two days' notice, and the purpose of the meeting shall be stated in the call, and no other business shall be transacted.

Five directors shall constitute a quorum.

ARTICLE II.—*Duties and powers of the officers*

The president, or, in his absence, the vice president, shall preside at all meetings of the society and of the board of directors. He shall also present a report of the work of the society for the preceding year at its annual meeting.

The president shall appoint all standing committees and shall be ex officio member of all committees.

The secretary shall give notice of all meetings and keep a proper record of the proceedings of the society, the minutes of its meetings and of those of the directors, a complete register of its members, and shall keep on file the original reports of the treasurer and attorney to the board of directors, and shall be the custodian of its general papers and records. He shall also have the custody of the seal of the society and affix the same when necessary upon the resolution of the board.

The treasurer shall receive and disburse all moneys of the society and keep same in a depository approved by the board, but he shall not incur any debt or make any expenditure out of the general funds in excess of the amount allowed by the budget for the several purposes therein specified, unless by order of the board. He shall keep separate accounts of any moneys received by him for special purposes and shall expend such moneys under the direction of the board. He shall present to the board a monthly report of the receipts and expenditures of the society and also an annual report at its annual meeting.

The attorney, under rules approved by the board of directors, shall have charge and supervision of the offices and of the legal work of the society and shall have correct books kept at all said offices showing all business done and moneys received and paid out, and shall report to the treasurer at least once a month.

ARTICLE III.—*Standing committees*

There shall be an executive committee, composed of five directors, which shall have all the powers of the board between the meetings in May and September.

There shall be a committee on finance, of which the treasurer shall be a member, and which shall be charged with the duty of raising the funds of the society. This committee shall exercise a general supervision over the finances of the society and prepare an annual report of the receipts and expenditures of the preceding year, together with a budget of the estimated expenses and the

estimated receipts of the ensuing year. After the budget for the year has been adopted by the board, should a deficit appear in one account and a surplus in another, the committee shall have the power to transfer from one account to another, but shall in no way increase the total amount of the budget. The committee shall also have a public accountant audit the books of the treasurer and the attorneys.

There shall be a committee on membership, which shall be charged with the duty of increasing the membership of the society.

There shall be a visiting committee for each office of the society. It shall be the duty of such committee to visit the office to which they have been assigned at least once a month for conference with the attorney in charge for the purpose of observing and advising as to the work and report to the board.

There shall be a committee on publication, which shall have charge of all publications of the society, and shall make public through the press, or otherwise, such matters as may promote the objects of the society.

There shall be a law committee, which shall aid and direct the attorneys in legal questions when requested, and its members shall be ready at all times to give their legal advice and their services gratuitously, and shall act as counsel whenever necessary.

Before each annual meeting the board shall appoint a committee of members to nominate candidates for election to the board, the report of which committee shall accompany the call for the annual meeting of the society.

ARTICLE IV

Order of business for general and special meetings of the society:

1. Declaration by secretary that a quorum is present.
2. Reading of the minutes of the previous meeting.
3. Reading of reports.
4. Communications from special committees.
5. Unfinished business.
6. New and miscellaneous business.

Order of business for the directors:

1. Roll call.
2. Reading of the minutes.
3. Communication from the chair.
4. Reports of standing committees.
5. Election of new members.
6. Reports by special committees.
7. Old business.
8. New and miscellaneous business.

ARTICLE V.—*Amendments*

These by-laws may be amended by a vote of three-fourths of the members present at any meeting of the society, or by a majority of the board of directors at any of their meetings.

APPENDIX F.—SUGGESTIONS CONCERNING THE FORMATION OF LEGAL AID ORGANIZATIONS

This appendix is a statement of certain practical suggestions concerning the formation of legal aid organizations. There are several reasons for it.

New legal aid societies and bureaus are constantly being established. Many persons are meeting in actual practice problems of administrative detail. There is need for a collection of data which indicates how other similar groups of people have solved their problems in the same field.

The National Association of Legal Aid Organizations has been gathering information as to methods of operation in the local societies, and these suggestions represent in large measure the combined judgment and experience of the legal aid world.

One caution should be expressed. It is not possible to consider all local conditions which may affect legal aid work. Such rules as are set down may as the result of actual experience be modified in a particular city. But as they have all originated in practical experience they should not be lightly disregarded. The endeavor is to set up minimum standards for legal aid work. If the work in any community falls below these minimum standards it may bring discredit to the work everywhere.

PRELIMINARY STEPS

A thorough understanding of legal aid work.—The first step in the establishment of a successful organization is a thorough understanding of the nature of legal aid work and its ultimate purpose. If such an understanding is acquired it will be possible to fit the machinery of the legal aid society into the other machinery for legal and social work in the community. This tends to make the work broad enough to cover its entire field and yet not to overlap the work of other organizations. Such forethought will eliminate friction and waste of effort.

The present bulletin is an effort to set forth the nature and ultimate purpose of legal aid work. For detailed information not covered by this appendix, inquiries may be made to the secretary National Association of Legal Aid Organizations, 133 South Twelfth Street, Philadelphia, Pa.

A gathering of interested persons.—One person alone can do legal aid work. It is customary, however, to gather a group of interested persons to act as a supervisory committee. Such a group tends to secure for the work broader contacts with the community at large. Experience has shown the value of such contacts. The composition of such a group will be largely dictated by local conditions. It is customary to have as members lawyers, social workers, and others of the public-spirited people in the vicinity.

A survey as to the need for this kind of service.—Such a group should ask itself the question as to whether there is any real need for legal aid work in its neighborhood. If there is no need the legal aid organization is superfluous. But such a conclusion should not be reached until all the facts are available. The facts throughout the United States indicate that there is about one legal aid client to every 100 of population each year. The community which does not have such a record is the exception and not the rule.

The only final test as to the need is to start legal aid work in a modest way, see that every one who may need it is notified that it is being carried on, keep accurate records of the cases actually handled, and at the expiration of two or three years give the subject thorough consideration. One year is not enough to test the work. The practice of a young lawyer does not grow to reasonable size in one year. Legal aid work in all the older organizations has grown slowly. As soon as the community at large learns that the results obtained by the organization are satisfactory the volume of business will indicate the need.

Certain fundamentals in organization.—The work must be made a definite entity in the community if it is to be recognized. There are four practical matters in the way of making it definite—a place where the work may be conducted, a time when the office may be open to receive applicants, a definite individual or group to do the actual work, and a definite supervisory body.

Definite place and time serve the convenience of both workers and applicants. Legal aid organizations have failed because the work was done in a number of scattered law offices and at any time which the workers found available after their regular work. If legal aid work is worth doing it is worth doing well. A businesslike attention to these matters will be worth much in good will. Good will bears the same relation to legal aid work that it does to any business.

The foundation of a lawyer's practice is the personal relation between him and his clients. To insure the confidence of the personal relation, corporations for the practice of the law are prohibited in many States. If the attorney who is to do legal aid work is not carefully selected or if an effort is made to force the applicant to accept any attorney who volunteers, regardless of his ability, the reputation of the societies will suffer. If the applicant sees a new group of workers every time he calls at the office he will begin to question their ability to handle his case. The selection of definite workers is essential because it goes to expedite efficiency and the good will of the business.

The supervisory committee guards those phases of the work which the immediate workers can not handle. Whether it takes the form of a board of directors or continues as a more or less organized committee its function will be the same.

Form of organization.—The next problem is as to the form of organization. Local conditions will determine this because different forms are adapted to different communities. The need for organization arises from the fact that an unorganized group will sooner or later disintegrate. The work should not be left dependent upon the whim of members of a disorganized group. Again we sound the note of business expediency, efficiency, and service to the community. An organized body may appoint a treasurer, who is in a position to ask for funds for operating expenses.

In communities with a population of less than 50,000 the Illinois plan is the best devised thus far. This plan has been fully described in Chapter XV.

In communities with a population of between 50,000 and 100,000 some form of the Lexington plan appears adequate. This plan is similar to that in use where the legal aid bureau is part of a social agency. The social agency supplies the office and the funds for operation. A part-time lawyer and clerk are retained and the work proceeds under the supervision of the social agency.

In a community with a population in excess of 100,000 one of the three standard types may be used. These are the private corporation, the municipal bureau, and the department of a social agency. The relative merits of these plans have been discussed in Chapter XV.

The population figures indicated above are somewhat arbitrary. In actual practice the form of organization must be determined by the number of cases to be handled. If the bar association committee under the Illinois plan shows signs of breaking down because of the press of work, a part-time lawyer should be employed. If the part-time lawyer can not handle the volume of business, he should be placed on a full-time basis and given the necessary assistants.

The supervisory committee in considering the adoption of one of these three standard forms will be governed by the amount of control it desires to exercise in the matter of forming policies for the work, the question as to where operation expenses are to come from, and the practical question of how to get the work started. In general it is considered wise not to establish the municipal bureau until a public sentiment has been developed which can adequately cope with the tendency to political control and spiritless routine. Those are the objections usually made to this particular form.

Appendix E contains a copy of the constitution and by-laws of the New York Legal Aid Society, which will serve as a model for groups desiring a private corporation.

Appendix D contains a digest of ordinances under which municipal bureaus have been established. This will serve as a model for municipal activity.

PROBLEMS OF INTERNAL ORGANIZATION

When the form of organization has been established there follows the even more serious matter of arranging a machinery to care adequately for the handling of the various cases and applicants who come for aid.

Personnel.—The most important matter is the selection of the workers with whom the applicants will come in contact. If the workers are the best obtainable, the work will be satisfactory. If the workers are not the best, organizations should be delayed until the best are secured. Ethical standards on the part of the workers are probably the most important of the qualifications. Courtesy to the applicants for aid is invaluable. Ability to handle the routine work will come from experience, and doubtful cases can be referred to older lawyers or to the supervisory committee. A satisfied client is the most precious asset we can secure. The personal contact between the worker and the client usually determines this point.

Legal aid organizations employ three distinct types of workers—lawyers, clerks, and investigators. There are a few interpreters and miscellaneous workers in some of the more highly developed offices. Lawyers and clerks are well recognized as to the work they are required to do. Transport them to a private law office and their work would be the same. The investigator has grown up with legal aid work. His function is somewhat like that of a probation officer. He is the lengthened arm of the lawyer. He works outside of the office gathering evidence for presentation in court, determining the truth or falsity of the facts submitted by the applicants, settling cases by conciliation, interviewing recalcitrant opposing parties. The service thus rendered can be performed by the lawyer only at a serious sacrifice of time away from the office. It is not difficult to obtain an energetic young lawyer to take hold of the work in exchange for the experience he obtains. Such a man, with help from a group of older lawyers, can care for any case that may arise.

Clerks and stenographers will adapt themselves to the office routine without much trouble. Investigators, however, must be trained in the work. Experience with a social case working agency is only part of the problem. There must be an understanding of some of the rudiments of law, because legal aid is the primary function of a legal aid society.

The number of workers necessary to handle the work in a particular office depends upon many factors. Personal ability, the number of cases, the nature of cases, all have a bearing.

Records and office forms.—The general purpose of legal aid work is to cooperate with the administration of justice and similarly interested agencies in securing justice to the poor. That being our task, we want to do it as well as possible. It can not be done well unless a legal aid organization understands what it is doing itself and what other legal aid organizations are doing; nor can the fruits of the work be fully garnered unless our experience is available as a part of the general fund of social experience. Therefore we keep records.

The National Association of Legal Aid Organizations has furnished us with a standard classification of the information which we are to keep. This information deals with cases and with clients. Records as to cases include data as to the source, nature, and disposition. Records as to clients cover civic status, economic status, and social status.

Having considered why records should be kept, and what records ought to be kept, the next point is how they should be kept. Here again the National Association of Legal Aid Organizations has given us a standard set of forms.

Forms are of three sorts: (a) Forms to record the facts of each case; (b) forms to give reasonable access to the facts of each case while the case is in progress; and (c) forms to give reasonable access to the facts in each case when it is closed and the data are filed away.

(a) The standard form to record the facts of the case is a docket card of the following design. It should be remembered that all facts about the case and applicant appear on it, and also a complete history of the case as it progresses. Besides the value of having the facts in concise form the accuracy of this docket card will answer many a troublesome question raised by someone who desires to criticize the work:

DOCKET CARD		Case No. _____																																												
Name of applicant..... Residence.....	Folder for correspondence	Name of adverse party..... Residence.....																																												
<hr/>																																														
DATA AS TO CLIENT	DATA AS TO DISPOSITION OF CASE																																													
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(b) The forms to give reasonable access to the case when it is in progress are: (1) A follow-up system and (2) a system of easy access to the docket card, so that it may be secured from the files upon short notice.

Follow-up systems need no explanation here. The details may be secured in many books and from the nearest office of a concern which specializes in filing systems.

For access to the docket card the following suggestions are made:

File the docket card numerically. On 3 by 5 cards prepare an alphabetical cross index of the names of applicants and opposing parties. The cards in the alphabetical cross index bear the numbers of the case. The card bearing the name of the applicant is filed alphabetically under his name. The card bearing the name of the opposing party is filed alphabetically under his name.

(c) The form to secure reasonable access to the facts of each case after it is closed is a digest sheet in the following form. Before a case is closed the data on the docket card should be checked on the digest sheet:

DATA AS TO CLIENT

Case number	Nationality	Citizenship	Present wage or average earning capacity	Monthly rent paid	Number of dependents
	Canada	By naturalization	Unemployed	Rent \$20-\$30 a month	1 dependent
	China	Being naturalized	Wages under \$10 a week	Rent \$30-\$40 a month	2 dependents
	France	Alien	Wages \$10-\$20 a week	Rent over \$40 a month	3 dependents
	Germany		Wages \$20-\$25 a week		4 dependents
	Italy		Wages \$25-\$30 a week		Over 4 dependents
	Poland		Wages over \$30 a week		
	Russia		1. Real estate		
	Sweden		2. Value of personal property		
	United States		3. Value of income from other sources		

DATA AS TO CASE—SOURCE

Case number	I. Federal Government	II. State and county government	III. Local government	IV. Foreign consuls	V. Law	VI. Medicine	VII. Religion	VIII. Social agencies	IX. Business and industry	X. Publicity	XI. Individuals
		(a) Federal courts (b) Federal officers 1. Shipping commissioner 2. U. S. District Attorney 3. Immigration Bureau	(a) Highest court (b) Court of general jurisdiction (c) Probate court, etc. (d) Industrial accident board (e) District attorney (f) Other State officers 1. Labor bureaus 2. Insurance commissioner 3. Banking commissioner	(a) Local courts 1. Municipal court 2. Small claims court 3. Domestic relations court 4. Juvenile court (b) Local prosecutor (c) Police (d) Other local officers 1. Mayor 2. Health department 3.	(a) Lawyers (b) Bar associations (c) Legal aid organizations	(a) Doctors (b) Hospitals (c) Clergy (b) Churches	1. Associated charities 2. Red Cross 3. Children's aid society 4. American Legion 5. 6.	(a) Employees (b) Labor unions (c) Others 1. Banks 2. Insurance companies 3.	(a) Newspapers (b) Other publicity (c) Previously served by society (d) Referred by another client (e) Direct application (d) Member of society		

DATA AS TO CASE—NATURE

Case number	A. Cases growing out of contractual relations	B. Torts	C. Cases growing out of property	D. Estates	E. Domestic relations		F. Criminal matters	G. Various	H
					Husband and wife	Parent and child			
	1. Wages								
	2. Promissory notes								
	3. Small loans								
	4. Other money claims								
	(a) Representing plaintiff								
	(b) Representing defendant								
	5. Installment contracts								
	6. Wage assignments and garnishments								
	7. Insurance								
	8. Partnership								
	9. Breach of contract								
	10. Investments								
	11. Workmen's compensation								
	12. Personal injuries								
	13. Attorney and client								
	14. Libel and slander								
	15. Fraud, deceit, and mis- information								
	16. Torts								
	21. Real estate								
	(a) Purchases								
	(b) Mortgages								
	(c) Partition								
	22. Landlord and tenant								
	(a) Rent								
	(b) Eviction								
	(c) Lodging house								
	23. Recovery of personal prop- erty								
	(a) Lost								
	(b) Detained								
	(c) Stored								
	24. Conversion of personal property								
	(a) Theft								
	(b) Damages								
	31. Estates of deceased								
	32. Insane and feeble minded persons								
	33. Minors' estates								
	34. Bankruptcy								
	41. Annulment								
	42. Divorce								
	43. Separation								
	44. Desertion								
	45. Nonsupport								
	46. Alimony								
	47. Nonsupport								
	48. Adoption								
	49. Guardianship of person								
	50. Custody								
	51. Crimes against children								
	52. Nonsupport of parents								
	53. Illegitimacy								
	61. Criminal matters								
	71. Patents								
	72. War claims								
	73. Employment offices								
	74. Drafting legal documents								
	81. Miscellaneous								

Financial and accounting matters.—This situation may be considered under the questions: (a) How much does it cost to operate a legal aid organization? (b) Where does the money come from? (c) What is an adequate accounting system?

The question as to cost is best answered by the table following, which shows the cost of operation in the year 1923:

AVERAGE COST PER CASE IN 1923, BY CITY

City	Number of legal aid cases	Gross cost of operation	Average gross cost per case
Albany.....	85	\$500	\$5.88
Boston.....	6,742	40,914	6.07
Buffalo.....	3,416	13,506	3.95
Bridgeport.....	1,790	5,200	2.90
Chicago, Legal Aid Bureau.....	16,227	25,670	1.58
Cincinnati.....	1,016	2,500	2.46
Cleveland.....	5,948	19,035	3.20
Detroit.....	2,803	10,953	3.91
Grand Rapids.....	822	3,687	4.49
Hartford, Legal Aid Bureau.....	532	1,200	2.26
Hartford, Public Defender.....	70	3,000	42.86
Hoboken.....	500	500	1.00
Indianapolis.....	400	1,170	2.93
Kansas City.....	4,163	8,400	2.02
Los Angeles, city police court defender.....	1,495	6,483	4.34
Louisville.....	1,121	6,683	5.96
Milwaukee.....	2,380	6,043	2.54
Minneapolis.....	1,559	6,402	4.11
New York, Legal Aid Society.....	29,270	63,603	2.17
New York, Educational Alliance.....	2,995	7,656	2.56
New York, National Desertion Bureau.....	1,309	16,718	12.77
New York, Voluntary Defenders Committee.....	503	18,000	35.79
Philadelphia.....	12,500	28,555	2.28
Pittsburgh.....	350	1,685	4.81
Providence.....	320	2,905	9.08
Rochester.....	1,056	4,350	4.12
St. Louis.....	1,398	8,008	5.73
San Francisco.....	1,011	7,818	7.73
Worcester.....	105	918	8.74
Total.....	101,886	322,062	3.16

It should be kept in mind that a new organization will show a cost per case larger than one firmly established where there are many cases. A certain amount of expense is necessary whether there are 50 or 500 cases. This minimum expense covers salaries and office expenses. The same expense will suffice for a much larger number of cases and so reduce the cost per case. Where money for operation expenses comes from is indicated by the following:

Eleven organizations receive funds from the city treasury, 10 from subscription of members, 11 from members of the bar, 17 from social agencies, 6 from community welfare funds, and 3 from miscellaneous sources. Of these miscellaneous sources, 1 is a trust fund, 1 a contribution from a law school, and 1 income on invested securities.

In the last analysis, whether a legal aid organization receives money or not depends upon the initiative of the personnel of the supervisory body and upon that almost entirely. No effort should be spared to make the income adequate, nor should the active workers be required to raise the funds.

Accounting is essential both as to operation expenses and clients' funds. Legal aid organizations are trustees of this money, and as such are subject to court action in case of improper application. In a larger sense, however, it is an evidence of businesslike operation to keep accurate account of all receipts and expenditures.

The National Association of Legal Aid Organizations has approved the following recommendations of a general nature:

1. That all legal aid organizations should once a year publish (or file with a public officer) a detailed financial report.

2. That all officers and employees who handle funds should be bonded.

3. That accounts should be audited from year to year by certified public accountants (or public officials).

4. That all money belonging to clients should be regarded as trust funds and should be handled through separate banking accounts or through such controlling accounts as will make it certain that these trust funds are never used for general expenses.

5. That in every cash transaction with every client, he should sign a receipt for cash given him and be given a receipt for cash received from him.

Accounts for operation funds and clients' funds should be kept separate. Separate bank accounts and separate sets of books are urged. The four books suggested are cash book, ledger, check book, and receipt book.

No extended discussion of accounting is in order here. The form of ledger, check book, and receipt book are sufficiently well known not to require explanation. The form of cash book is suggested as follows:

CASH BOOK FOR OPERATION EXPENSES

Receipts		Disbursements	
Date	Name of person paying	Date	Name of person receiving
	Amount of payment		money
	Dues of members, Class I		Check number
	Dues of members, Class II		Total paid
	Dues of members, Class III		Rent
	Gifts		Heat
	Welfare Federation		Light
	Social Agency No. I		Cleaning
	Social Agency No. II		Repairs
	Registration fees		Salaries of lawyers
	Commissions earned		Salaries of clerks
	Miscellaneous		Salaries of investigators
			Salaries, miscellaneous
			Furniture
			Stationery, printing
			Postage
			Supplies
			Telephone
			Traveling expenses
			Petty cash
			Books
			Miscellaneous
			Fund for litigation ex- penses

CASH BOOK FOR CLIENTS' FUNDS

Receipts		Disbursements	
Date	Name of person paying	Date	Name of person receiving
	Case number		money
	Purpose of payment		Case number
	Amount of payment		Check number
	Court costs advanced by client		Purpose of payment
	Collected from adverse party without litigation		Amount of payment
	Collected from adverse party as result of litigation		Paid to clients
	Miscellaneous		Paid to adverse party
	Deposited by client to be paid to adverse party		Court costs advanced by client
	Refund of litigation expenses advanced by bureau		Legal aid reimbursing for court costs advanced
			Miscellaneous

Office rules.—A brief consideration of this very extensive part of office routine is in order. The rules will be better understood if we consider first what is the progress of a case through the office from the time the applicant

first enters the door until the whole matter is finally disposed of. The following gives some idea of this:

1. Preliminary registration of applicant by clerk, who takes down a brief statement of the data as to client appearing on the docket card.
2. Applicant interviews attorney and tells him the full story of the case. The facts are entered on the docket card.
3. Attorney determines either at the first interview or after careful investigation—
 - (a) Whether the case is within the jurisdiction of the legal aid society.
 - (b) Whether the applicant is within the jurisdiction of the legal aid society.
 - (c) Whether there are other than legal problems involved.
4. If case or applicant is one which the society can not handle, the attorney refers the case elsewhere for help and marks it closed as far as the legal aid society is concerned.
5. If he finds that both case and client come within the jurisdiction of the legal aid society, he may—
 - (a) Make a further investigation of the applicant's story.
 - (b) Proceed to look up the information required.
 - (c) Proceed with the case. This procedure is usually by way of conciliation.
6. If he finds that the opposing party is amenable to conciliation, he may arrange meetings and make the necessary adjustment.
7. If he finds that the opposing party is not amenable, he may proceed to court.
8. After court action he proceeds to issue execution and to force compliance with the court's decree.

Office rules are divided into rules as to case, and rules as to client. In each our attention is directed to a sorting out of those coming in the door to determine which are to be accepted and which rejected and how those which are accepted are to be handled.

Rules as to client.—The problems as to the client are, briefly—

1. Where to draw the line between those persons who can afford to pay a fee and those who can not.
2. What is to be done with those persons who can afford only a small fee.
3. What is to be done with those persons who require aid of a sort other than legal.

The line between the legal aid client and the person who can afford to pay a fee is not to be drawn rigidly. In the last analysis the border line cases will be comparatively few in number. The average applicant is either obviously one or the other. A lawyer in legal aid work can resolve those questions without too much difficulty. The few remaining cases he may refer to his supervisory committee to determine finally.

The applicant who can pay a small fee is a larger problem. The only remedy suggested at present is to refer such applicant to the bar association. Arrangements should be made with the bar association to appoint a committee to give its advice and assistance in solving such matters. Such a committee will be invaluable.

Many applicants do not need legal aid at all; financial or medical aid, employment, and advice are their particular requirements. The procedure in such cases is to see that the applicant reaches a social welfare organization such as is qualified to care for his particular difficulties. Here there is required close contact with social agencies. The greatest rule of all as to clients is that each client should receive the same courteous treatment as if he were paying a fee.

Rules as to case.—Certain types of cases may produce difficulties unless they are considered at the very beginning and rules made as to what shall be done with them.

Divorce cases may conflict with the moral sense of the community. The procedure to obtain a divorce may be so expensive that the bar will regard any person able to pay for it as able also to pay a fee. Negligence cases if involving more than a nominal sum may create an adverse opinion in the minds of other lawyers, because such cases if legally valid will be handled by lawyers generally on a contingent fee basis. Bankruptcy and other cases where the applicant may be legally right but morally wrong always present ethical problems.

There is no absolute answer as to whether a legal aid organization should take any or all of these cases. Each case must rest on its own merits. Much difficulty will be avoided by a set of rules determined in advance by the supervisory body of the legal aid organization in conjunction with the legal aid committee of the local bar association.

There have been questions raised at times as to whether a legal aid organization should accept criminal cases. So far the answer has been plain. If the staff of the legal aid organization is equal to the task it certainly should accept such cases. If the staff is not adequate it should be made adequate.

Cases to guard against.—There are types of cases which must be carefully guarded against or they will cause trouble. Among these are complaints against members of the bar and complaints against the bureau itself. Many applicants will appear claiming that some lawyer has defrauded them and asking the legal aid society to rise up and denounce the lawyer. When it is remembered that most lawyers are honest and that many clients do not clearly understand what their lawyer is doing the legal aid worker will be slow to proceed in such a case without careful investigation of the truth of the applicant's story. The grievance committee of the bar association should take care of all such matters. Here again a committee of the local bar association will be of great value in providing a method of handling such cases.

Legal aid clients who are dissatisfied with the results obtained for them by the society will report to the grievance committee of the bar association or to other lawyers urging them to expose the society. In such cases the only defenses are a docket card which shows precisely what was done and why it was done; and an unimpeachable ethical standing. Any case may result this way. So the legal aid workers should keep constantly on the alert to justify every step taken.

CONTACTS WITH OTHER GROUPS

In general, contacts with other agencies in the community are helpful to legal aid work. From them are derived moral and financial support. Clients are referred by other agencies to the legal aid society. Proper provision can be made to fit legal aid work into the community so that the society is a beneficial organization. Certain specific contacts may be mentioned.

Contacts with State legislature.—The preventive function of legal aid work is quite as important as the remedial. The records of the legal aid society form in many cases the only accurate evidence of the actual operation of certain laws. Care should be taken to see that the records are in condition to be used by the legislature and also to inform the members of the legislature that such material is available. The result will be preventive legislation based upon facts in many cases of urgent necessity.

Contacts with local bar association.—Legal aid work is a newcomer in the field previously occupied solely by the bar. If proper contacts are established, each of these groups can keep to its own side of the road. In the absence of such precaution friction will inevitably result.

In every case the local bar association should be asked to appoint a committee on legal aid work. This committee should be composed of the same men as, or should sit with the supervisory committee of, the legal aid society in developing policies and deciding as to the method of procedure in borderline cases.

Contacts with the State bar association.—The local legal aid society needs contact with the State bar association because legal aid work constantly involves cases in other counties. The State bar association is, in many respects, the moving factor in the development of legal aid work throughout the State. If there is an obligation to obtain justice for the people of one's own city, it is equally valid with respect to the people of one's own State.

The practical value of such contacts lies in the development of a chain of legal aid organizations throughout the State so that a case arising in one county involving rights or property in another county may be handled adequately in both.

Contacts with social agencies.—Legal aid organizations in the smaller communities, either under the Illinois plan or the Lexington plan, will find need for the closest contact with social agencies at all times. The social agencies will be the source of a large volume of cases. The social workers will cooperate in making investigations.

In the larger organizations the need for contact, while equally great, arises from slightly different causes. Many cases come to social agencies involving legal problems. Many cases come to legal aid agencies involving social problems. A well-ordered system of community cooperation would require that the legal aid society care for the legal problems and the social agency for the social problems. To accomplish the best results in actual practice the contacts should be such that the individual case or client will not suffer by reason of having two agencies attend to phases of the problem.

Other contacts.—Of the many other contacts, that with the newspapers is the only one to require mention here. Newspapers are glad to record the facts of such legal aid cases as may be revealed without violating any professional obligation of silence. On the other hand, it is difficult to overestimate the effect upon the community at large of adequate newspaper publicity in support of the work.

Conclusion.—There are several matters which are invaluable to a legal aid society. The first is a reputation for settling its cases by conciliation wherever possible. The second is a reputation for proceeding in a proper case to the very limit to secure a just settlement. The third is a reputation for fair dealing under all circumstances. Without these, legal aid work will be but a secondary affair. With them it will take its proper place in the administration of justice.

APPENDIX G.—LIST OF LEGAL AID ORGANIZATIONS IN OPERATION IN 1925

NAMES AND ADDRESSES OF LEGAL AID ORGANIZATIONS, 1925, BY CITY

City	Name of organization	Address
Akron, Ohio.....	Legal aid committee of the Charity Organization Society.	5 East Buchtel Ave.
Albany, N. Y.	Legal Aid Society of the City of Albany (Inc.)...	86 State St.
Atlanta, Ga.	Atlanta Legal Aid Society.....	Room 922, Fulton County Court-house.
Baltimore, Md.	Legal aid bureau of the Baltimore Alliance of Charitable and Social Agencies.	830 Munsey Bldg.
Boston, Mass.	Boston Legal Aid Society.....	16 Ashburton Place.
Do	National Association of Legal Aid Organizations.	111 Devonshire St.
Do	Legal aid committee of the American Bar Association.	60 State St.
Bridgeport, Conn.	Legal aid division, department of public charities.	Public Welfare Bldg.
Do	Robert F. de Forest, public defender.....	First National Bank Bldg.
Buffalo, N. Y.	Legal Aid Bureau of Buffalo (Inc.).....	Lincoln Bldg., 327 Washington St.
Do	Legal aid committee of the New York State Bar Association.	Erie County Savings Bank Bldg.
Cambridge, Mass.	Harvard Legal Aid Bureau.....	Harvard Law School.
Camden, N. J.	Legal aid bureau, Bureau of Charities.....	519 Arch St.
Chattanooga, Tenn.	Social service bureau.....	Ham. Bank Bldg.
Chicago, Ill.	Legal aid bureau of the United Charities.....	308 North Michigan Ave.
Do	Jewish Social Service Bureau of Chicago, legal aid department.	1800 Selden St.
Do	Chicago Bar Association committee on defense of poor persons accused of crime.	112 W. Adams St.
Do	Legal aid committee of the Illinois State Bar Association.	140 South Dearborn St.
Cincinnati, Ohio.	Legal Aid Society of Cincinnati.....	304 Southern Ohio Bank Bldg.
Cleveland, Ohio.	Legal Aid Society of Cleveland.....	614 Fidelity Mortgage Bldg.
Columbia, S. C.	The Associated Charities of Columbia.....	1123 Gervais St.
Columbus, Ohio.	Legal aid committee of the Franklin County Bar Association.	Assignment room, Courthouse.
Do	Carl Young, public defender.....	Grand Theater Bldg.
Dallas, Tex.	Free legal aid bureau.....	City Hall.
Dayton, Ohio.	Bureau of legal aid.....	Cappel Bldg., 129 S. Ludlow St.
Denver, Colo.	Legal Aid Society of Denver.....	Care of Harry C. Green, 712 Central Savings Bank Bldg.
Des Moines, Iowa	Legal aid committee of the Federation of Women's Clubs.	Care of Dr. Carrie Harrison Dickey, 621 48th St.
Detroit, Mich.	Legal aid bureau of the Detroit Bar Association.	71 W. Warren Ave.
Do	Legal aid committee of the Michigan State Bar Association.	Do.
Duluth, Minn.	Free legal aid bureau, division of public affairs..	312 West Superior St.
Grand Rapids, Mich	Legal aid bureau of the Social Welfare Association.	404 Housemand Bldg.
Greensboro, N. C.	Committee organizing the work.....	Care of Samuel R. Dighton, 1009 Jefferson Standard Bldg.
Grinnell, Iowa.	Legal aid committee of the Social Service League.	923 Broad St.
Harrisburg, Pa.	Legal aid committee of the Dauphin County Bar Association.	Care of George Ross Hull, 5 S. Third St.
Hartford, Conn.	Legal aid bureau.....	Municipal Bldg.
Do.....	John F. Forward, public defender.....	720 Main St.
Do.....	Legal aid committee of the Connecticut State Bar Association.	18 Asylum St.
Hoboken, N. J.	Legal Aid Society of Hoboken.....	1 Newark St.
Indianapolis, Ind.	Family Welfare Society.....	5th Floor Baldwin Block.
Jersey City, N. J.	Legal Aid Society of Jersey City.....	Care of John Francis Gough, 15 Exchange Place.
Kansas City, Mo.	Legal aid bureau, board of public welfare.....	3d Floor, City Hall.
Knoxville, Tenn.		Care of Malcolm McDermott, 203 East Main St.
Lansing, Mich.	Legal aid bureau of the Ingham County Bar Association.	Care of Social Service Bureau, 303 West Allegan St.
Lexington, Ky.	Legal aid bureau.....	Care of The Associated Charities.
Long Beach, Calif.	Legal aid committee of the Long Beach Bar Association.	Care of Clyde Doyle, Suite 1115 Pacific-Southwest Bldg.
Los Angeles, Calif.	Ernest R. Orfila, city police court defender.....	419 Bullard Bldg, 156 Spring St.
Do.....	William T. Aggeler, public defender for Los Angeles County.	906 Hall of Records.

NAMES AND ADDRESSES OF LEGAL AID ORGANIZATIONS, 1925, BY CITY—Continued

City	Name of organization	Address
Louisville, Ky.	Legal Aid Society of Louisville.....	609 Realty Bldg.
Memphis, Tenn.	Memphis Legal Aid Society.....	Room 7, basement county court-house.
Milwaukee, Wis.	Legal Aid Society of Milwaukee.....	85 Oneida St.
Do.....	Legal aid committee of the Wisconsin State Bar Association.	840 Wells Bldg.
Minneapolis, Minn.	Legal aid society of the Associated Charities.....	510 Temple Court.
Do.....	L. L. Longbrake, public defender.....	801 New York Life Bldg.
Montreal.....	Montreal Legal Aid Bureau.....	207 St. Catherine St. West.
Do.....	Legal aid department.....	Care of Baron de Hirsch Inst., 410 Bleury St.
Nashville, Tenn.	Legal aid bureau.....	Care of Nashville Chamber of Commerce.
Newark, N. J.	Essex County Legal Aid Association.....	222 Market St.
New Bedford, Mass.	New Bedford Legal Aid Society.....	234 Union St.
New Haven, Conn.	Samuel E. Hoyt, public defender.....	Colonial Bldg., 195 Church St.
Do.....	Legal Aid Society of Louisiana.....	1406 Whitney Central Bank Bldg.
New Orleans, La.		
New York City.....	The Legal Aid Society.....	239 Broadway.
Do.....	Legal aid bureau of the Educational Alliance.....	East Broadway and Jefferson Sts.
Do.....	National Desertion Bureau.....	799 Broadway (cor. Eleventh St.).
Do.....	Voluntary defenders committee of the Legal Aid Society.	32 Franklin St.
Oakland, Calif.	Associated Charities of the City of Oakland.....	1930 Harrison St.
Omaha, Neb.	Free legal aid bureau.....	403 City Hall.
Do.....	John N. Baldwin, public defender.....	1106 First National Bank Bldg.
Passaic, N. J.	James H. Donnelly, overseer of the poor.....	Municipal Bldg.
Philadelphia, Pa.	Bureau of legal aid, Department of Public Welfare.	587 City Hall.
Do.....	National Association of Legal Aid Organizations.	133 South Twelfth St.
Do.....	Legal aid committee of the Pennsylvania Bar Association.	Do.
Pittsburgh, Pa.	Legal Aid Society of Pittsburgh.....	1315 Union Trust Bldg.
Pittsfield, Mass.	Associated Charities.....	119 Fenn St.
Plainfield, N. J.	Case conference committee, Society for Organizing Charity.	City Hall.
Pontiac, Mich.	Social service bureau.....	Pythian Bldg., Huron St. West.
Portland, Me.	Associated Charities.....	15 City Bldg.
Portland, Oreg.	Legal aid committee.....	Care of George S. Shepard, Gasco Bldg.
Providence, R. I.	Legal Aid Society of Rhode Island.....	326 Grosvenor Bldg.
Reading, Pa.	Legal aid committee of the Berks County Bar Association.	Liberty Bank Bldg.
Richmond, Va.	Legal Aid Society of Richmond.....	601 North Lombardy St.
Rochester, N. Y.	Legal Aid Society.....	31 Exchange St.
St. Louis, Mo.	Legal aid bureau, department of public welfare.	208 Municipal Court Bldg.
St. Paul, Minn.	Legal aid department of the United Charities.....	203 Wilder Bldg.
San Diego, Calif.	J. A. Hahn, attorney under the DeWitt C. Mitchell Trust.	548 Spreckels Bldg.
San Francisco, Calif.	Legal Aid Society of San Francisco.....	912 Hearst Bldg.
Do.....	Frank Egan, public defender.....	Hall of Justice.
Do.....	Legal aid committee of the California State Bar Association.	821 First National Bank Bldg.
Schenectady, N. Y.	Allan B. Mann, American Legion Post No. 21.....	420 State St.
Scranton, Pa.	Legal aid committee, Lackawanna County Bar Association.	Connell Bldg.
Seattle, Wash.	Legal service bureau, Social Welfare League.....	243 Central Bldg.
Springfield, Mass.	Committee organizing the work.....	Care of Edward S. Bradford, 359 State St.
Toledo, Ohio.....	The Social Service Federation.....	572 Ontario St.
Washington, D. C.	Legal aid bureau, Associated Charities.....	1022 Eleventh St. N.W.
Do.....	"The Barristers".....	Care of F. Regis Noel, 408 Fifth St. N.W.
Wilkes-Barre, Pa.	The United Charities.....	46 North Washington St.
Worcester, Mass.	Legal aid committee of the Worcester Bar Association.	314 Main St.
Yonkers, N. Y.	Charity Organization Society.....	55 South Broadway.
Youngstown, Ohio....	Committee organizing the work.....	Care of C. H. Crumpler, 37 Central Square.

APPENDIX H.—CONSTITUTION OF NATIONAL ASSOCIATION OF LEGAL AID ORGANIZATIONS

PREAMBLE

We, the undersigned legal aid organizations of the United States, acting through our duly accredited representatives, hereby join ourselves together and adopt the following articles of agreement in order to form a more perfect national legal aid organization, establish the powers which shall be entrusted to it, and create a constitution for its governance.

ARTICLE I

SECTION 1.—*Name*

The name by which this organization shall be known is the National Association of Legal Aid Organizations.

SECTION 2.—*Purposes*

The objects and purposes of this association shall be to promote and develop legal aid work, to encourage the formation of new legal aid organizations wherever they may be needed, to provide a central body with defined duties and powers for the guidance of legal aid work, and to cooperate with the judiciary, the bar, and all organizations interested in the administration of justice.

SECTION 3.—*Powers*

To the end that the national association may be empowered and equipped to carry out its purposes it shall have and exercise:

1. Supervision over legal aid work in its national aspects, over the relationships between legal aid organizations and all other national organizations, and over the relationships between legal aid organizations.

2. Supervision over all matters pertaining to the work of encouraging the formation of new legal aid organizations.

3. The right to promulgate standards as to the conduct of legal aid work, including classification of clients and cases, the methods of keeping financial accounts, and the manner of rendering reports to the public.

4. The privilege of visitation, including access to the books, accounts, and records of any legal aid organization, other than information privileged by the relation of attorney and client; provided, however, that such access shall be had only by an officer of the association after authorization by the executive committee of the association, and shall be subject to the legal right of such member organization to control its own books, accounts, and records.

5. The right to call for any information, other than information privileged by the relation of attorney and client, in the possession of any legal aid organization.

6. The right to publish accounts of legal aid work, to make reports and suggestions to the governing board of any legal aid organization, and to make public the names of organizations which are delinquent as to membership, dues, or the conduct of their work.

ARTICLE II

SECTION 1.—*Qualifications for membership*

Any organization actively engaged in any form of legal aid work shall be eligible to membership in the association.

The word "organization," as used in this constitution, shall be deemed to include any private society or association, or any department, bureau, or committee thereof, any public department, bureau, or office, and any committee or other group of persons.

SECTION 2.—*Election to membership*

Any organization, qualified as defined in the preceding section, may apply to the executive committee for admission to membership and may be elected to membership by a majority vote of the executive committee.

SECTION 3.—*Representation and dues*

1. Every member organization shall be entitled to representation in the council of the association, as follows:

Class I.—Organizations receiving not more than 1,500 cases per annum shall be entitled to one representative and shall pay dues to the association of \$25 per annum.

Class II.—Organizations receiving more than 1,500 and less than 5,000 cases per annum shall be entitled to two representatives and shall pay dues to the association of \$75 per annum.

Class III.—Organizations receiving more than 5,000 cases per annum shall be entitled to three representatives and shall pay dues to the association of \$200 per annum.

2. All questions as to classification shall be settled or resolved by the executive committee.

SECTION 4.—*Nonpayment of dues*

Nonpayment of dues within the time fixed by the executive committee shall automatically operate to suspend the membership of the delinquent organization. Upon the payment of all accrued dues the delinquent organization may, by vote of the executive committee, regain membership in good standing.

SECTION 5.—*Associate membership*

The council or executive committee may elect to associate membership in the association any public official body or other person actively engaged in any form of legal aid work; provided, however, that such associate members shall not be entitled to vote and shall pay no dues.

SECTION 6.—*Contributing membership*

The council or executive committee may elect to contributing membership in the association any person interested in any form of legal aid work; provided, however, that such contributing member shall not be entitled to vote. Contributing members shall pay such dues as the executive committee may establish.

SECTION 7.—*Cancellation of membership*

The membership or associate membership of any organization or person may be withdrawn or canceled by a two-thirds vote of the representatives present at any annual meeting of the council, provided notice of such intended action be included in the call for the meeting, and provided, however, that membership shall be so withdrawn or canceled only when it appears to the council that the member has been guilty of a violation of the terms of this constitution, or of such by-laws as may be adopted, or of such regulations as may be established by the council pursuant to section 3 of Article I. Any associate or contributing membership may be terminated in the discretion of the council or executive committee.

SECTION 8.—*Resignation from membership*

Any member may resign by giving the secretary notice in writing of such member's resignation, to take effect not less than 10 days after giving of such notice.

ARTICLE III

SECTION 1.—*Council, composition*

The council of the association shall consist of all the duly accredited representatives of the member organizations.

SECTION 2.—*Meetings*

The council shall meet annually at a time and place to be fixed by the executive committee.

Special meetings of the council may be called by the executive committee in its discretion. Any 10 member organizations may, by notice signed by them, call a special meeting for the transaction of such business as is expressly set forth in the notice.

Every member organization shall be entitled to receive at least 20 days' notice of any meeting of the council.

At any meeting representation of six members or presence of 12 representatives shall constitute a quorum.

SECTION 3.—*Voting*

At meetings of the council each representative shall be entitled to one vote. Any five representatives may require that a vote on any matter shall be taken by a calling of the roll of accredited representatives.

SECTION 4.—*Powers*

The council shall have and exercise the supreme control over all the work of the association and of its officers. All powers not expressly vested in the executive committee or in the officers shall vest in the council; provided, however, that the council may in so far as is consistent with this constitution delegate power, by appropriate vote, to an officer, or to the executive committee, or to such other committees as it may designate.

ARTICLE IV

SECTION 1.—*Executive committee, composition*

There shall be an executive committee consisting of seven persons who shall be elected by the council at each annual meeting. The members of the executive committee shall hold office for one year, or until their successors are elected.

SECTION 2.—*Meetings*

The executive committee shall meet at such times and places as the president may fix. Each member shall be entitled to receive four days' notice of any meeting. A special meeting may be called by any three members of the committee, but each member shall be entitled to receive 10 days' notice of such special meeting.

Four members shall constitute a quorum for the transaction of any business at any meeting.

SECTION 3.—*Powers*

During the intervals between meetings of the council the executive committee shall, subject to such limitations as the council may prescribe, have full authority to carry on the work of the association.

SECTION 4.—*Correspondence*

The executive committee may transact business by correspondence among its members and may vote by mail, but in such case an affirmative vote of five members shall be required for the passage of any vote.

SECTION 5.—*Vacancies*

In the event of any vacancy in any office, the executive committee shall have power to fill the vacancy for the balance of the unexpired term.

ARTICLE V

SECTION 1.—*Officers*

In addition to the executive committee, the association shall have the following officers: A president, one or more vice-presidents, a treasurer, and a secretary.

The association may also elect an honorary president from time to time.

The officers shall be elected by the council at its annual meeting. They shall hold office for the term of one year and until their respective successors have been elected.

SECTION 2.—*President*

It shall be the duty of the president to preside at all meetings of the council, to call meetings of the executive committee, to appoint all committees except as otherwise ordered, to present each year a summary report of the activities of the association, and to perform such other duties as are prescribed by the council.

He shall be a member of the executive committee *ex officio*.

SECTION 3.—*Vice president*

It shall be the duty of a vice president to preside at meetings of the council whenever the president is absent, and to perform such other duties as the council may prescribe.

SECTION 4.—*Treasurer*

It shall be the duty of the treasurer to collect the membership dues, to receive, hold, manage, and disburse the funds of the association, to sign checks in the name and behalf of the association, to furnish a surety bond in a sum to be fixed by the executive committee, to keep proper books of account which shall be audited at least once a year, to present each year to the council a financial statement for the preceding period, and to perform such other duties as may be prescribed by the council or executive committee.

The treasurer shall have no power to borrow money or sign promissory notes in the name of the association, unless specifically authorized by vote of the executive committee.

SECTION 5.—*Secretary*

It shall be the duty of the secretary to keep an exact record of the proceedings of the council and of the executive committee, to compile and maintain an accurate list of the member organizations and of their accredited representatives, to call the roll whenever a record vote is required, to send out to the members proper notices of all meetings, copies of the records of all proceedings, and copies of such votes, by-laws, and regulations as may be adopted, to have custody of and preserve the records and files of the association, and to perform such other duties as may be prescribed by the council or executive committee.

ARTICLE VI

SECTION 1.—*By-laws*

The council may from time to time adopt by-laws, not inconsistent with this constitution, for the regulation of the work of the association. Such by-laws may be altered, amended, or repealed at any meeting of the council.

SECTION 2.—*Amendments*

This constitution may be amended by a two-thirds vote of the member organizations represented at any meeting of the council, provided that the call for the meeting gives notice of the proposal to amend and of the general character of the proposed amendment or amendments.

SERIES OF BULLETINS PUBLISHED BY THE BUREAU OF LABOR STATISTICS

*The publication of the annual and special reports and of the bimonthly bulletin was discontinued in July, 1912, and since that time a bulletin has been published at irregular intervals. Each number contains matter devoted to one of a series of general subjects. These bulletins are numbered consecutively, beginning with No. 101, and up to No. 236 they also carry consecutive numbers under each series. Beginning with No. 237 the serial numbering has been discontinued. A list of the series is given below. Under each is grouped all the bulletins which contain material relating to the subject matter of that series. A list of the reports and bulletins of the Bureau issued prior to July 1, 1912, will be furnished on application. The bulletins marked thus * are out of print.*

Wholesale Prices.

- *Bul. 114. Wholesale prices, 1890 to 1912.
- Bul. 149. Wholesale prices, 1890 to 1913.
- *Bul. 173. Index numbers of wholesale prices in the United States and foreign countries.
- *Bul. 181. Wholesale prices, 1890 to 1914.
- *Bul. 200. Wholesale prices, 1890 to 1915.
- *Bul. 226. Wholesale prices, 1890 to 1916.
- Bul. 269. Wholesale prices, 1890 to 1919.
- Bul. 284. Index numbers of wholesale prices in the United States and foreign countries. [Revision of Bulletin No. 173.]
- Bul. 296. Wholesale prices, 1890 to 1920.
- Bul. 320. Wholesale prices, 1890 to 1921.
- Bul. 335. Wholesale prices, 1890 to 1922.
- Bul. 367. Wholesale prices, 1890 to 1923.
- Bul. 390. Wholesale prices, 1890 to 1924.
- Bul. 396. Retail prices, 1890 to 1924.

Retail Prices and Cost of Living.

- *Bul. 105. Retail prices, 1890 to 1911: Part I.
Retail prices, 1890 to 1911: Part II—General tables.
- *Bul. 106. Retail prices, 1890 to June, 1912: Part I.
Retail prices, 1890 to June, 1912: Part II—General tables.
- Bul. 108. Retail prices, 1890 to August, 1912.
- Bul. 110. Retail prices, 1890 to October, 1912.
- Bul. 113. Retail prices, 1890 to December, 1912.
- Bul. 115. Retail prices, 1890 to February, 1913.
- *Bul. 121. Sugar prices, from refiner to consumer
- Bul. 125. Retail prices, 1890 to April, 1913.
- *Bul. 130. Wheat and flour prices, from farmer to consumer.
- Bul. 132. Retail prices, 1890: to June, 1913.
- Bul. 136. Retail prices, 1890 to August, 1913.
- *Bul. 138. Retail prices, 1890 to October, 1913.
- *Bul. 140. Retail prices, 1890 to December, 1913.
- Bul. 156. Retail prices, 1907 to December, 1914.
- Bul. 164. Butter prices, from producer to consumer.
- Bul. 170. Foreign food prices as affected by the war.
- *Bul. 184. Retail prices, 1907 to June, 1915.
- Bul. 197. Retail prices, 1907 to December, 1915.
- Bul. 228. Retail prices, 1907 to December, 1916.
- Bul. 270. Retail prices, 1913 to December, 1919.
- Bul. 300. Retail prices, 1913 to 1920.
- Bul. 315. Retail prices, 1913 to 1921.
- Bul. 334. Retail prices, 1913 to 1922.
- Bul. 357. Cost of living in the United States.
- Bul. 366. Retail prices, 1913 to December, 1923.
- Bul. 369. The use of cost-of-living figures in wage adjustments.
- Bul. 396. Retail prices, 1890 to December, 1924.

Wages and Hours of Labor.

- Bul. 116. Hours, earnings, and duration of employment of wage-earning women in selected industries in the District of Columbia.
- *Bul. 118. Ten-hour maximum working-day for women and young persons.
- Bul. 119. Working hours of women in the pea canneries of Wisconsin
- *Bul. 123. Wages and hours of labor in the cotton, woolen, and silk industries, 1890 to 1912.
- *Bul. 129. Wages and hours of labor in the lumber, millwork, and furniture industries, 1890 to 1912.
- *Bul. 131. Union scale of wages and hours of labor, 1907 to 1912.

Wages and Hours of Labor—Continued.

- **Bul. 134.** Wages and hours of labor in the boot and shoe and hosiery and knit goods industries, 1890 to 1912.
- ***Bul. 135.** Wages and hours of labor in the cigar and clothing industries, 1911 and 1912.
- Bul. 137.** Wages and hours of labor in the building and repairing of steam railroad cars, 1890 to 1912.
- Bul. 143.** Union scale of wages and hours of labor, May 15, 1913.
- ***Bul. 146.** Wages and regularity of employment and standardization of piece rates in the dress and waist industry of New York City.
- ***Bul. 147.** Wages and regularity of employment in the cloak, suit, and skirt industry.
- ***Bul. 150.** Wages and hours of labor in the cotton, woolen, and silk industries, 1907 to 1913.
- ***Bul. 151.** Wages and hours of labor in the iron and steel industry in the United States, 1907 to 1912.
- Bul. 153.** Wages and hours of labor in the lumber, millwork, and furniture industries, 1907 to 1913.
- ***Bul. 154.** Wages and hours of labor in the boot and shoe and hosiery and underwear industries, 1907 to 1913.
- Bul. 160.** Hours, earnings, and conditions of labor of women in Indiana mercantile establishments and garment factories.
- Bul. 161.** Wages and hours of labor in the clothing and cigar industries, 1911 to 1913.
- Bul. 163.** Wages and hours of labor in the building and repairing of steam railroad cars, 1907 to 1913.
- Bul. 168.** Wages and hours of labor in the iron and steel industry, 1907 to 1913.
- ***Bul. 171.** Union scale of wages and hours of labor, May 1, 1914.
- Bul. 177.** Wages and hours of labor in the hosiery and underwear industry, 1907 to 1914.
- Bul. 178.** Wages and hours of labor in the boot and shoe industry, 1907 to 1914.
- ***Bul. 187.** Wages and hours of labor in the men's clothing industry, 1911 to 1914.
- ***Bul. 190.** Wages and hours of labor in the cotton, woolen, and silk industries, 1907 to 1914.
- ***Bul. 194.** Union scale of wages and hours of labor, May 1, 1915.
- Bul. 204.** Street railway employment in the United States.
- Bul. 214.** Union scale of wages and hours of labor, May 15, 1916.
- Bul. 218.** Wages and hours of labor in the iron and steel industry, 1907 to 1915.
- Bul. 221.** Hours, fatigue, and health in British munition factories.
- Bul. 225.** Wages and hours of labor in the lumber, millwork, and furniture industries, 1915.
- Bul. 232.** Wages and hours of labor in the boot and shoe industry, 1907 to 1916.
- Bul. 238.** Wages and hours of labor in woolen and worsted goods manufacturing, 1916.
- Bul. 239.** Wages and hours of labor in cotton goods manufacturing and finishing, 1916.
- Bul. 245.** Union scale of wages and hours of labor, May 15, 1917.
- Bul. 252.** Wages and hours of labor in the slaughtering and meat-packing industry, 1917.
- Bul. 259.** Union scale of wages and hours of labor, May 15, 1918.
- Bul. 260.** Wages and hours of labor in the boot and shoe industry, 1907 to 1918.
- Bul. 261.** Wages and hours of labor in woolen and worsted goods manufacturing, 1918.
- Bul. 262.** Wages and hours of labor in cotton goods manufacturing and finishing, 1918.
- Bul. 265.** Industrial survey in selected industries in the United States, 1919. Preliminary report.
- ***Bul. 274.** Union scale of wages and hours of labor, May 15, 1919.
- Bul. 278.** Wages and hours of labor in the boot and shoe industry, 1907 to 1920.
- Bul. 279.** Hours and earnings in anthracite and bituminous coal mining: Anthracite, 1919 and 1920; bituminous, 1920.
- Bul. 286.** Union scale of wages and hours of labor, May 15, 1920.
- Bul. 288.** Wages and hours of labor in cotton goods manufacturing, 1920.
- Bul. 289.** Wages and hours of labor in woolen and worsted goods manufacturing, 1920.
- Bul. 294.** Wages and hours of labor in the slaughtering and meat-packing industry in 1921.
- Bul. 297.** Wages and hours of labor in the petroleum industry, 1920.
- Bul. 302.** Union scale of wages and hours of labor, May 15, 1921.
- Bul. 305.** Wages and hours of labor in the iron and steel industry, 1907 to 1920.
- Bul. 316.** Hours and earnings in anthracite and bituminous coal mining—anthracite, January, 1922, bituminous, winter of 1921–22.
- Bul. 317.** Wages and hours of labor in lumber manufacturing, 1921.
- Bul. 324.** Wages and hours of labor in the boot and shoe industry, 1907 to 1922.
- Bul. 325.** Union scale of wages and hours of labor, May 15, 1922.
- Bul. 327.** Wages and hours of labor in woolen and worsted goods manufacturing, 1922.
- Bul. 328.** Wages and hours of labor in hosiery and underwear industry, 1922.
- Bul. 329.** Wages and hours of labor in the men's clothing industry, 1922.
- Bul. 345.** Wages and hours of labor in cotton goods manufacturing, 1922.
- Bul. 348.** Wages and hours of labor in the automobile industry, 1922.
- Bul. 353.** Wages and hours of labor in the iron and steel industry, 1907 to 1922.
- Bul. 354.** Union scale of wages and hours of labor, May 15, 1923.
- Bul. 356.** Productivity cost in the common-brick industry, 1922–23.
- Bul. 358.** Wages and hours of labor in the automobile tire industry, 1923.
- Bul. 360.** Time and labor costs in manufacturing 100 pairs of shoes.
- Bul. 362.** Wages and hours of labor in foundries and machine shops, 1923.
- Bul. 363.** Wages and hours of labor in lumber manufacturing, 1923.

Wages and Hours of Labor—Continued.

- Bul. 365. Wages and hours of labor in the paper and pulp industry.
- Bul. 371. Wages and hours of labor in cotton goods manufacturing, 1924.
- Bul. 373. Wages and hours of labor in slaughtering and meat-packing industry, 1923.
- Bul. 374. Wages and hours of labor in the boot and shoe industry, 1907 to 1924.
- Bul. 376. Wages and hours of labor in the hosiery and underwear industry, 1907 to 1924.
- Bul. 377. Wages and hours of labor in woolen and worsted goods manufacturing, 1924.
- Bul. 381. Wages and hours of labor in the iron and steel industry, 1907 to 1924.
- Bul. 387. Wages and hours of labor in the men's clothing industry.
- Bul. 388. Union scale of wages and hours of labor, May 15, 1924.
- Bul. 394. Wages and hours of labor in metalliferous mines, 1924.

Employment and Unemployment.

- *Bul. 109. Statistics of unemployment and the work of employment offices.
- Bul. 116. Hours, earnings, and duration of employment of wage-earning women in selected industries in the District of Columbia.
- Bul. 172. Unemployment in New York City, N. Y.
- *Bul. 182. Unemployment among women in department and other retail stores of Boston, Mass.
- *Bul. 183. Regularity of employment in the women's ready-to-wear garment industries.
- Bul. 192. Proceedings of the American Association of Public Employment Offices.
- *Bul. 195. Unemployment in the United States.
- Bul. 196. Proceedings of the Employment Managers' Conference held at Minneapolis, Minn., January, 1916.
- *Bul. 202. Proceedings of the conference of Employment Managers' Association of Boston, Mass., held May 10, 1916.
- Bul. 206. The British system of labor exchanges.
- Bul. 220. Proceedings of the Fourth Annual Meeting of the American Association of Public Employment Offices, Buffalo, N. Y., July 20 and 21, 1916.
- Bul. 223. Employment of women and juveniles in Great Britain during the war.
- *Bul. 227. Proceedings of the Employment Managers' Conference, Philadelphia, Pa., April 2 and 3, 1917.
- Bul. 235. Employment system of the Lake Carriers' Association.
- *Bul. 241. Public employment offices in the United States.
- Bul. 247. Proceedings of Employment Managers' Conference, Rochester, N. Y., May 9-11, 1918.
- Bul. 310. Industrial unemployment: A statistical study of its extent and causes.
- Bul. 311. Proceedings of the Ninth Annual Meeting of the International Association of Public Employment Services, held at Buffalo, N. Y., September 7-9, 1921.
- Bul. 337. Proceedings of the Tenth Annual Meeting of the International Association of Public Employment Services, held at Washington, D. C., September 11-13, 1922.
- Bul. 355. Proceedings of the Eleventh Annual Meeting of the International Association of Public Employment Services, held at Toronto, Canada, September 4-7, 1923.

Women in Industry.

- Bul. 116. Hours, earnings, and duration of employment of wage-earning women in selected industries in the District of Columbia.
- *Bul. 117. Prohibition of night work of young persons.
- *Bul. 118. Ten-hour maximum working-day for women and young persons.
- Bul. 119. Working hours of women in the pea canneries of Wisconsin.
- *Bul. 122. Employment of women in power laundries in Milwaukee.
- Bul. 160. Hours, earnings, and conditions of labor of women in Indiana mercantile establishments and garment factories.
- *Bul. 167. Minimum-wage legislation in the United States and foreign countries.
- *Bul. 175. Summary of the report on condition of woman and child wage earners in the United States.
- *Bul. 176. Effect of minimum-wage determinations in Oregon.
- *Bul. 180. The boot and shoe industry in Massachusetts as a vocation for women.
- *Bul. 182. Unemployment among women in department and other retail stores of Boston, Mass.
- Bul. 193. Dressmaking as a trade for women in Massachusetts.
- Bul. 215. Industrial experience of trade-school girls in Massachusetts.
- *Bul. 217. Effect of workmen's compensation laws in diminishing the necessity of industrial employment of women and children.
- Bul. 223. Employment of women and juveniles in Great Britain during the war.
- Bul. 253. Women in the lead industries.

Workmen's Insurance and Compensation (including laws relating thereto).

- *Bul. 101. Care of tuberculous wage earners in Germany.
- *Bul. 102. British National Insurance Act, 1911.
- Bul. 103. Sickness and accident insurance law of Switzerland.
- Bul. 107. Law relating to insurance of salaried employees in Germany.
- *Bul. 126. Workmen's compensation laws of the United States and foreign countries.
- *Bul. 155. Compensation for accidents to employees of the United States.

Workmen's Insurance and Compensation—Continued.

- *Bul. 185. Compensation legislation of 1914 and 1915.
- *Bul. 203. Workmen's compensation laws of the United States and foreign countries. 1916.
- Bul. 210. Proceedings of the Third Annual Meeting of the International Association of Industrial Accident Boards and Commissions, held at Columbus, Ohio, April 25-28, 1916.
- Bul. 212. Proceedings of the conference on social insurance called by the International Association of Industrial Accident Boards and Commissions, Washington, D. C., December 5-9, 1916.
- Bul. 217. Effect of workmen's compensation laws in diminishing the necessity of industrial employment of women and children.
- *Bul. 240. Comparison of workmen's compensation laws of the United States, up to December 31, 1917.
- Bul. 243. Workmen's compensation legislation in the United States and foreign countries, 1917 and 1918.
- Bul. 248. Proceedings of the Fourth Annual Meeting of the International Association of Industrial Accident Boards and Commissions, held at Boston, Mass., August 21-25, 1917.
- Bul. 264. Proceedings of the Fifth Annual Meeting of the International Association of Industrial Accident Boards and Commissions, held at Madison, Wis., September 24-27, 1918.
- Bul. 272. Workmen's compensation legislation of the United States and Canada, 1919.
- *Bul. 273. Proceedings of the Sixth Annual Meeting of the International Association of Industrial Accident Boards and Commissions, held at Toronto, Canada, September 23-26, 1919.
- Bul. 275. Comparison of workmen's compensation laws of the United States and Canada, up to January, 1920.
- Bul. 281. Proceedings of the Seventh Annual Meeting of the International Association of Industrial Accident Boards and Commissions, held at San Francisco, Calif., September 20-24, 1920.
- Bul. 301. Comparison of workmen's compensation insurance and administration.
- Bul. 304. Proceedings of the Eighth Annual Meeting of the International Association of Industrial Accident Boards and Commissions, held at Chicago, Ill., September 19-23, 1921.
- Bul. 312. National Health Insurance in Great Britain, 1911 to 1920.
- Bul. 332. Workmen's compensation legislation of the United States and Canada, 1920 to 1922.
- Bul. 333. Proceedings of the Ninth Annual Meeting of the International Association of Industrial Accident Boards and Commissions, held at Baltimore, Md., October 9-13, 1922.
- Bul. 359. Proceedings of the Tenth Annual Meeting of the International Association of Industrial Accident Boards and Commissions, held at St. Paul, Minn., September 24-26, 1923.
- Bul. 379. Comparison of workmen's compensation laws in the United States as of January 1, 1925.
- Bul. 385. Proceedings of the Eleventh Annual Meeting of the International Association of Industrial Accident Boards and Commissions, held at Halifax, Nova Scotia, August 28-28, 1924.
- Bul. 395. Index to proceedings of the International Association of Industrial Accident Boards and Commissions.

Industrial Accidents and Hygiene.

- *Bul. 104. Lead poisoning in potteries, tile works, and porcelain enameled sanitary ware factories.
- Bul. 120. Hygiene of the painters' trade.
- *Bul. 127. Dangers to workers from dust and fumes, and methods of protection.
- *Bul. 141. Lead poisoning in the smelting and refining of lead.
- *Bul. 157. Industrial accident statistics.
- *Bul. 165. Lead poisoning in the manufacture of storage batteries.
- *Bul. 179. Industrial poisons used in the rubber industry.
- Bul. 188. Report of British departmental committee on the danger in the use of lead in the painting of buildings.
- *Bul. 201. Report of committee on statistics and compensation insurance cost of the International Association of Industrial Accident Boards and Commissions. [Limited edition.]
- Bul. 205. Anthrax as an occupational disease.
- *Bul. 207. Causes of death by occupation.
- *Bul. 209. Hygiene of the printing trades.
- *Bul. 216. Accidents and accident prevention in machine building.
- Bul. 219. Industrial poisons used or produced in the manufacture of explosives.
- Bul. 221. Hours, fatigue, and health in British munition factories.
- Bul. 230. Industrial efficiency and fatigue in British munition factories.
- *Bul. 231. Mortality from respiratory diseases in dusty trades (inorganic dusts).
- *Bul. 234. Safety movement in the iron and steel industry, 1907 to 1917.
- Bul. 236. Effect of the air hammer on the hands of stonecutters.
- Bul. 251. Preventable deaths in the cotton manufacturing industry.
- Bul. 253. Women in the lead industries.
- Bul. 256. Accidents and accident prevention in machine building. (Revision of Bul. 216.)
- Bul. 267. Anthrax as an occupational disease. [Revised.]
- Bul. 276. Standardization of industrial accident statistics.
- Bul. 280. Industrial poisoning in making coal-tar dyes and dye intermediates.
- Bul. 291. Carbon monoxide poisoning.
- Bul. 293. The problem of dust phthisis in the granite-stone industry.
- Bul. 298. Causes and prevention of accidents in the iron and steel industry, 1910 to 1910.

Industrial Accidents and Hygiene—Continued.

- Bul. 306. Occupation hazards and diagnostic signs: A guide to impairment to be looked for in hazardous occupations.
- Bul. 339. Statistics of industrial accidents in the United States.
- Bul. 392. Hygiene of the printing trades.

Conciliation and Arbitration (including strikes and lockouts).

- *Bul. 124. Conciliation and arbitration in the building trades of Greater New York.
- *Bul. 133. Report of the industrial council of the British Board of Trade on its inquiry into industrial agreements.
- *Bul. 139. Michigan copper district strike.
- Bul. 144. Industrial court of the cloak, suit, and skirt industry of New York City.
- Bul. 145. Conciliation, arbitration, and sanitation in the dress and waist industry of New York City.
- Bul. 191. Collective bargaining in the anthracite coal industry.
- *Bul. 198. Collective agreements in the men's clothing industry.
- Bul. 233. Operation of the Industrial Disputes Investigation Act of Canada.
- Bul. 303. Use of Federal power in settlement of railway labor disputes.
- Bul. 341. Trade agreement in the silk-ribbon industry of New York City.

Labor Laws of the United States (including decisions of courts relating to labor).

- *Bul. 111. Labor legislation of 1912.
- *Bul. 112. Decisions of courts and opinions affecting labor, 1912.
- *Bul. 148. Labor laws of the United States, with decisions of courts relating thereto.
- *Bul. 152. Decisions of courts and opinions affecting labor, 1913.
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