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*Kansas City*, where a special committee of the Lawyers' Association of Kansas City, Junior Section, has been appointed for the purpose and where the local Law School is interested in participating.

*New York City*, which has the oldest and largest legal aid organization in the world, to which the local bar associations have accorded an unusual measure of support. It is believed, however, that the Legal Aid Society needs to extend its service and will do so if it finds the ways and means.

The technique of such a survey is fairly simple. Every legal aid office keeps records.

One record shows the source from which every case comes. The commonest sources are the different social agencies, Red Cross, judges, clerks of court, district attorneys, police, newspapers, labor unions, and so on. The survey contemplates having competent investigators go to such sources, find out if they are troubled by the cases of poor persons, what they do about them, if anything, where they refer them, whether the volume is substantial or trifling, and finally whether, if none exists, they would welcome the establishment of a legal aid organization under bar association auspices.

## Meeting the Need for Legal Aid to the Poor

BY CHARLES EVANS HUGHES, JR.\*

[This is the second of two radio talks, made possible through the interest of the Columbia Broadcasting System, to disseminate information on the necessity and nature of legal aid to the poor.]

Day before yesterday the speaker was Harrison Tweed, president of the Legal Aid Society of New York. His topic was "What Legal Aid Means to America's Poor." He sketched the history of legal aid work in this country and described the kind of service that is rendered to persons too poor to employ lawyers on the ordinary basis. He pointed out that the need of legal aid to the poor is not nearly as widely understood as that of medical and surgical aid. The social necessity that no one must be deprived of the latter, because of poverty, is so generally recognized that, comparatively speaking, the well-to-do contribute generously to hospitals; and public funds are readily reached to provide hospitalization, clinical care and expert medical advice to the extent that private philanthropy does not meet the need. In reality the provision of needed legal assistance to the poor is in many ways just as vital a social necessity. For a man not to be able to secure a just recognition of his legal rights, merely because he is too poor to pay a lawyer, leaves him with a sense of baffled outrage, which may easily react upon him as seriously as a disease; and, as Mr. Tweed said, may be just as contagious and so react as seriously

upon society. But public understanding of this fact is still in its elementary stage.

That brings me to the subject of my own talk, "Meeting the Need for Legal Aid to the Poor." The ideal that rich and poor shall stand on an equality before the law means something more than the assurance won in Magna Carta in 1215, "to no one will we sell, to no one will we refuse or delay right or justice," revolutionary as that advance was in that day. It means something more than that courts should be impartial and not consciously prefer the cause of the strong and influential over that of the weak and friendless. Courts must act on the facts presented to them; they cannot develop those facts on their own motion unaided. This is in most cases the function of lawyers, whose services are an absolutely essential factor in the administration of justice. Equality before the law therefore requires that the poor have both advice as to their rights and representation of their just causes in the courts, which is both devoted and skillful. And meeting the need for legal aid to the poor therefore comes down to bringing to the poor the services of honest and competent lawyers.

The existing means of meeting this need are, first, conscientious private lawyers; second, legal aid societies, bureaus and offices, some private and some publicly supported; and, third, enlightened legislation, usually sponsored by legal aid societies or bar associations, to eliminate practices which bear harshly on the poor, or to simplify the machinery of justice in certain kinds of cases with which they are chiefly concerned. The first two of these categories correspond

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roughly to those which provide medical and surgical care; the legal aid societies approximating in legal matters the function which hospitals and clinics perform in medical. We need not dwell on the third category, social legislation, because, while reforms like workmen's compensation and the establishment of small claims courts may dispense with the need of lawyers in some cases, there still remain so many in which legal services are essential to justice that the obligation to bring them within reach of the poor is still, and always will be, a pressing one.

The amount that the private lawyer, like the private doctor, can do, important as it is, has inherent limitations. This is especially true in the cities. The country lawyer, like the country doctor, is a friend and father confessor to the entire neighborhood. He knows everyone and everyone knows him. He takes care of the rich, the comfortably-off and the poor alike and charges them according to their means; the very poor not at all. Since he knows, or knows about, everybody, the country lawyer can without difficulty distinguish the deserving from the undeserving, the man with a just grievance from the crank, and give each the attention which he deserves. This is legal aid in its best form. It does not need to be organized. The lawyers of the small community are their own legal aid society, just as the doctors of that community are the only necessary clinic.

#### Needs of Large City

At the other extreme are the crowded and complicated conditions of life in a metropolis. The individual lawyer, conscientious as he may be, is no more able to meet on any considerable scale the need for legal aid to the poor than is the private physician or surgeon to meet the need for medical and surgical aid or the generous philanthropist to dispense charity directly. The poor are comparatively more numerous. They are not in any physical sense neighbors of those who would aid them. The individual practitioner, legal or medical, is not in contact with those who need legal or medical service, nor are they with him. The individual lawyer cannot, without very searching and time-taking investigation, distinguish between the worthy and the unworthy applicant or often even between the sane and the insane. Dealing with the legal needs of the poor of a great city, many of them foreign-born, also requires special technique which can be gained only by long experience in a multitude of such cases. In the mass, their problems are actually more expertly handled by the trained attorneys attached to a legal aid society than they would be by other practitioners. And so it results that

in the larger cities the conscientious private lawyer, while still giving a considerable amount of free legal service direct to persons with whom the normal relations of his life happen to bring him in contact, discharges his part of the obligation to bring legal aid to the poor in the mass largely by contributing generously to a legal aid society. Between rural conditions at the one extreme and those of a great metropolis at the other, the need for organization of legal aid increases directly with the population; but it is safe to say that organization is necessary to some extent in urban communities of any considerable size. There now exist about a hundred such organizations, great or small. Their growth has been encouraging. In 1920, when the legal aid idea was already over forty years old, the legal aid offices of the country aided some 96,000 clients; in 1936 the number was over 260,000. But in a number of cities these offices are of comparatively recent origin and small in the scope of their service. And even in communities where they are relatively well established, the dependability of resources to meet their budgets varies greatly. In some places the private legal aid society shares in the community chest with family relief, children's aid, hospitals and the other vitally essential agencies of social service; but in many others it does not. There are still many large and important cities where there is no such agency at all. Seattle, Toledo, Birmingham, Richmond and Syracuse are glaring examples of large cities where none exist. The establishment of legal aid societies has been mainly due to the efforts of public-spirited lawyers and laymen in their own communities, and there has therefore been no logical planning of where they should be put. For instance, Springfield and New Bedford, Mass., and Reading, Pa., have legal aid societies, while the comparable cities of Worcester, Mass., and Scranton, Pa., have not. The fact that a legal aid society exists in a certain city also by no means tells the whole story. The oldest of all is that of New York City, but its resources do not permit it to serve the whole of Greater New York.

#### Revenue Never Suffices

It is unquestionably the fact that no privately financed legal aid society has now the resources, either in money or man-power, to meet anything like the need for legal service in the community which it tries to serve. For example, most societies are unable to cover all of the courts in which they should function. Again, many cases arise which are of extraordinary difficulty, though the amount involved is small. Litigations demanding exhaustive investigation of facts and

several days of court trial so overtax the resources of most societies that they are obliged, in justice to their day-to-day work, to turn many such away. This is especially serious where the prospective client is the defendant to whom even victory would not mean a recovery out of which he might pay a competent private lawyer.

The inability of private resources fully to meet the need for legal aid has in some communities led to the establishment of public offices. The obligation of society to provide a lawyer for a poor person accused of crime has won more general recognition than its obligation to provide lawyers for the poor in civil relations. This is the so-called "public defender" plan. Nevertheless, some of the civil legal aid agencies, for example, those in St. Louis and Hartford, are publicly supported; and in one city the civil work is public while the criminal work is privately handled. While public legal aid agencies may appear to be blessed with greater financial stability, they too have their troubles. In times of financial depression usually the first items cut out of public budgets are those for facilities that, rightly or wrongly are regarded as experimental or at least new. Legal aid in Philadelphia had that experience. There had been an excellent private legal aid society. Because its resources were limited, it was not able to fill the needs of the community; and the city took over the work on a much larger budget. But when the depression deepened that item was cut out of the appropriation bill and the public legal aid bureau closed its doors. There was nothing to do then but revive the old private society. Public legal aid bureaus and public defenders' offices in other cities have suffered similar fates. The result is that legal aid work, whether privately or publicly financed, is under-developed. Many cities that need it have not got it at all. In cities where it exists its resources are generally inadequate to do the needed task.

#### Society's Obligation

There is only one remedy for all of this, an awakened public conscience. There is need for more general appreciation of the obligation on the part of lawyers themselves. State and local bar associations could do more than they are doing to promote systematic extension of legal aid organizations. But there is even greater need of recognition on the part of the public that society's obligation to insure equality before the law can no more be adequately handled by the legal profession alone than can society's obligation to provide medical and surgical service be handled by the medical profession alone. Private contributions to support legal aid should be as

readily accessible as are those to support hospitals; and public opinion should demand that publicly supported legal aid bureaus, once established, should not be lightly abandoned.

To the uninitiated, legal aid, especially in civil matters, lacks something of the dramatic appeal. But to those who know it, its deep significance is evident. The servant girl or working man in financial distress striving to recover wages justly due; the woman distracted by marital or other family problems; the victim of the loan shark or other oppressor struggling to extricate himself from a morass—all of these and many others in like plight flock to the doors of a legal aid society. To them it is a haven of refuge.

All cannot be helped, but tens of thousands are. Many are relieved of burdens that harrow the soul and as many more freed from the nightmare of present want. To all is brought the deep spiritual satisfaction of vindicated right, if their causes have been successful, and, even if not, of having had a patient hearing, expert and disinterested advice and a thorough and skillful representation of their causes in the courts. Legal aid does this now for those whom its resources permit it to serve. Society must see that it is extended so that it may be brought within the reach of all who need and deserve it.

#### How to Organize a Legal Aid Clinic

Much valuable information concerning legal aid participated in by law schools, or conducted under their exclusive auspices, appears in a recent publication entitled, *How to Organize a Legal Aid Clinic*. The author is Prof. John S. Bradway, of Duke University School of Law, who has written much concerning all phases of legal aid work.

Participation by law schools, either in their own clinics, or in the work of established legal aid bureaus, was a very rare thing only a few years ago. Law teachers, always jealous concerning the distribution of the student's time, generally felt that legal aid work should not be countenanced. But in twenty law schools, all on the ABA approved list, these clinics are now open to law students. As against the arguments in moot courts, which concern questions of law, the legal aid clinic offers clients and real cases, and the rapid growth of the clinics is doubtless due to the need appreciated in the profession generally, by the newly admitted lawyers (hardly to be called practitioners), and by the law faculties.

It is accepted that the law graduate should be able to earn a living while acquiring practical skill and experience. Too long practice in minor