

THE BAR AND THE WAR

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America's organized bar is making a war record which is without precedent in the history of any nation. That record is being written in the "Good Will Book" of the American people. That record should stir with pride every lawyer who thinks of himself as a member of a profession and not merely as a practitioner. Parts of that record may also serve as a chart on a course which lies ahead of us.

But first let us take the making of the record.

Under the direction of their bar associations, literally thousands of lawyers, entirely apart from their personal affairs, are contributing to the winning of this war. Daily these members of the bar are giving in what Abraham Lincoln described as the lawyers' "stock in trade," namely, their time. They also donate their unrecorded, but heavy, out-of-pocket expenditures. In addition, they have pledged the resources of their bar associations to winning the home front aspect of this war.

The organization for this purpose is what might be called "a staff and line" set-up. The staff work is done primarily at the national level and the line implementation is carried out at the state and local levels.

The American Bar Association, as the representative organization at the national level, undertakes to do the staff work through a Committee on Coordination and Direction of War Effort which supervises 10 divisional committees. A recitation of the names of these "staff" groups and a limited statement of their jurisdiction may give some, even though inadequate, idea of their stations in the lawyer's home front.

First there is the *Committee on American Citizenship*. The immediate project of this group is promoting naturalization rites and ceremonies calculated to give to the new citizen and to his community an appreciation of the preeminence of law in the democratic way of life.

The *Bill of Rights* Committee is actively concerned with preserving the legal rights of individuals and minority groups against the hysteria of war time.

The *Civilian Defense* Committee has already compiled

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and published the scholarly yet practical Civilian Defense Manual. This is a standard reference guide: a working tool for the lawyer as adviser to the home front community. The Office of Civilian Defense has distributed this book throughout the Civilian Defense system. This Committee works not only with the Office of Civilian Defense but also with the Office of Price Administration.

Courts and War Time Social Protection is a committee dealing with the legal procedures requisite to eliminating venereal disease, the largest single cause for disability of military manpower.

Custody and Management of Alien Property covers the field—steadily growing in importance—concerning administration and judicial review in handling the alien properties which the United States has seized.

Improving the Administration of Justice. This is a continuing project of the bar which has new aspect brought out by the war.

Military Offenses treats with the military and civilian procedures for handling crimes and misdemeanors and the reconciliation conflicts.

Labor Employment and Social Security is pitching its instant interest on procedural and administrative aspects of manpower controls and in stimulating a war labor supply from the bar.

The *Public Information Program* is a speaker's organization with more than 600 state and local directors working. It is an educational medium. It brings the experience of the bar to explaining our institutions and the causes for which we fight.

Then there is the *Committee on War Work* through which the lawyers who bring legal assistance to the men in the armed forces and persons dependent upon them have an official status with the Army and the Navy.

The American Bar Association maintains a full-time personnel in Washington to service this group and allied state and local bar associations.

These "staff" divisional committees and this personnel get information, answer questions, generate ideas, plan programs and disseminate these data to the state and locals. This staff enterprise acts as a "clearing house" to advise the lawyers in state "A" what the bar is doing in states "B"

and "C"; to report which methods are proving successful and which have failed.

What this group does, generally, is to propose. The state and local bar associations dispose. Its functions are suggestive, not directive. The men in "the line" and on the spot make the decisions as to application.

Time will not permit a description of the various ways in which the state and local bar associations are handling the "line" and of this arrangement. It should be necessary to say only that "staff" plans would be no more valuable to the lawyers' effort than would be actual battle and campaign plans without an army to implement them. It is the men at the fighting front who win the day.

Under the title of Committees on National Defense, the national, state, and local bar associations are everywhere known to have done a masterly job in giving voluntary personal aid to the Selective Service System. Their "Manual of Law for Advisory Boards to Registrants" has been distributed in hundreds of thousands of copies. It is a veritable Bible for the draft.

The Committees on National Defense were succeeded by the War Work Committees. The quality of the accomplishments of the War Work Committees of the national, state and local associations on behalf of men in the armed forces and persons dependent upon them is officially recognized. This was first directly evidenced by War Department Circular No. 74. That order sets up, under the sponsorship of the War Department and the American Bar Association, the Legal Assistance Offices. The United States War Department does not lightly enter into joint sponsorship.

The Legal Assistance Office arrangement is in effect in all of the army camps, posts and stations in the United States. The plan provides that at each of these locations there shall be an office manned by lawyers who happen to be assigned to that command. To this office, any enlisted or commissioned men in the command may bring his personal legal troubles. Whenever his problem may be handled by an application of the legal wisdom born of experience, or by an examination of the statutes which does not involve research or documentation, the matter is disposed of then and there. Where, however, the matter involves a formal legal opinion, looks to litigation or extensive correspondence, or where

the man concerned prefers to talk to a civilian lawyer, the bar association nearest the command maintains a committee to perform these functions.

By Circular Letter R-1164 the Secretary of the Navy in cooperation with the American Bar Association has recently put a similar plan into effect in that department. Seaman Smith stationed at Miami Beach may secure prompt and competent drafting of a power of attorney which concerns his business affairs in Illinois and remittances to his mother in Seattle.

This jointly sponsored legal assistance office project is unique with this war. It has generated the mounting enthusiasm of lawyers both in uniform and out of it. It is not too early to say that the results are justifying our most extravagant hopes.

On the other end of this great undertaking, namely, looking after the legal affairs of the dependents of the armed forces, the job is entirely that of civilian lawyers. In virtually every community of any size in the whole country dependents of armed forces men may ask for legal advice and get it, without charge if necessary.

As time has passed, while the drafting of wills and powers of attorney continues to be a major activity, inquiries have shifted from property questions to domestic relations problems. Domestic relations, generally, appear to be increasingly active, particularly in the aspects of addition and division.

Some time ago, a commanding officer wrote to a lawyer in a distant city engaging him to secure a divorce for a soldier under the commanding officer's direction. The lawyer did not act with expedition. The Colonel complained. The lawyer's reply was "What's the hurry? This war is going to last some time." To this the Colonel answered "We know that, but in the meantime, every month out of my man's \$50 pay his wife is receiving \$22 and she is using the money to support a man with whom she is living. My soldier's enthusiasm for the continuance of this arrangement is limited."

The other day, we had our first report of a case for a member of the Women's Army Auxiliary Corps. This young woman reported that she had married, but immediately after the ceremony the bridegroom became violently insane.

Her legal assistance officer wanted to know if the annulment was possible. There may be a moral in connection with marrying a WAAC and displaying insanity, but the drawing of such a moral is not the province of the present speaker.

The value of this work the organized bar is performing for our men at war, either directly, or indirectly through their dependents, should be apparent. Battles are won by men whose minds are free to concentrate on winning them.

An additional aspect is that public understanding of the lawyer's function and good will toward the bar is developing at a rate that has not been known in our time.

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But some day the fighting will cease. What shall the bar have to offer to the community then? May we have reference, as a chart for the future, to this cooperative contribution the organized bar is now making?

In this audience there is probably no one who does not have ideas respecting a post war world order. We may follow your ideas, or we may "finesse" with Ely Culbertson. We may make "one world" with Wendell Willkie. We may reduce our sovereignty with Mr. Justice Roberts, or we may, with Clare Luce, cry "Globaloney." Whatever the style of international relationship we pursue, however, administrative and judicial procedures are fundamental to the functioning of that relationship. We, as lawyers, know that the adequate administration of justice is as indispensable an element to such a political fabric as the warp is to a cloth fabric. Machinery will not continue to run without lubrication. The lubricant for our social machinery is justice under law.

This is equally true, if not more true, of the domestic scene.

Millions of men and women (The number has been estimated as high as 20 million) in the armed forces and war industry must be fitted back into a peacetime economy. Granted an agreement as to broad policy, what officers, tribunals or courts are going to decide whether the policy is being correctly applied in the case of Joe Doaks, demobilized soldier, or Mary Smith, unemployed munitions maker? What are the rules of procedure, evidence and ultimate decision by which the interests of Joe, Mary, and the community are to be determined?

We are living under a system of governmental controls growing in complexity. Peace should bring at least some relaxation. It would seem reasonable to expect that such relaxation will be, in part at least, progressive rather than immediate. What procedures do we now have which, in the orderly administration of justice in a less emergent situation, we should drop? What are those we should follow in the transition period?

Who is going to get this 14 billion dollar industrial plant that the government now owns? Suppose a contest arises between "A" and "B" as to which one shall have title. What manner of man shall make decision? Shall it be someone appointed by executive order, or a judge, a member of a duly constituted court? Will the method prescribed for decision be directed by expediency only, or by the doing of that justice and through those modes to which we have heretofore been accustomed.

What about the termination, when the fighting stops, of the going contracts for war goods? Are we to have final administrative determination without a right to appeal to the courts? Will contractors be told, as many of them were at the conclusion of World War I, that the retention of a lawyer will be a handicap to the settlement of their claims?

Lawyers, as individuals, will not be silent when these problems are discussed. The individual lawyer is going to be in the midst of the struggle pulling for his client as the lawyers have done, and properly, on prior occasions. But the organized bar, that is, the lawyers as a whole, has a client. That client is the public and that client's interest is the administration of justice. Isn't it the obligation of each and all of our bar associations to see to it that this interest of their client is not overlooked?

The House of Delegates of the American Bar Association has given thought to these questions. Last March, the House created a Committee on Correlation of Post War Planning. This Committee is charged with surveying, developing and supervising the post war planning of the sections and committees of the American Bar Association. It is difficult to believe that the lawyers, speaking through their state and local bar associations as well as through their national body, will not have something to say on

these vital topics. It is difficult to believe that they will be content with merely passing resolutions. Is it not more likely that these groups, advantaged by their wartime experience, will take active steps to secure legislative acceptance of their ideas?

If we are to bring to such efforts at implementation the coordinated power of the organized bar, do we not have in the gratifying record now being written something of a chart for such a course?

There is a native caution in most of us against talking too much about the fruits of victory until we have won the victory, but the subject with which we as lawyers are *always* concerned is the administration of justice. A war may be the absorbing problem of generation but the administration of justice is the demanding task of an entire civilization. Of all manner of men our experience peculiarly qualifies us to advise in that field.

It is never too soon for the organized bar to plan for promoting the administration of justice. We are currently discovering the tremendous potential we have for community good when we coordinate our efforts. Let us not overlook this revelation as we plan for the future.