

PROBLEMS OF PRACTICE IN SMALL CITIES

WILLIS HICKAM*

The past two or three years have brought many unusual problems to the lawyer practicing in the small cities in Indiana. In some counties as many as half the active members of the bar are in the military or naval service. High salaries paid by employers in war production plants have enticed the secretaries from many offices for the duration. Trial work is greatly curtailed due to the difficulty in getting the attendance of jurors and witnesses. Most offices have many times their normal amount of title examinations and preparation of contracts and other documents pertaining to real estate transfers. New problems are constantly presented by clients whose business activities have any relation to the war effort. Probate work is about the only kind which remains normal.

It is devoutly hoped that the recent trend toward governmental regulation of and participation in so many various activities will be sharply reversed immediately upon the termination of the war.

Of course the problem of federal taxation is with us to stay, and, like it or not, every man in the active practice will have to devote some time and effort to keeping posted on some of those questions which no office can entirely disregard. Many counties may have one or more lawyers who specialize in taxation problems and will be available for consultation on the unusual questions as they arise, but few of the smaller counties will have enough of that work to justify such a specialty. Many complexities in tax legislation should be avoided, and it seems that they could be eliminated without jeopardizing tax collections. Such a course would not only be desired by business interests but it would be gratifying to many lawyers in the general practice who are occasionally called upon for an opinion on some extremely technical question which arises under the present legislation and its frequent changes.

Many of the administrations and agencies which have found their origin in the necessary control of war activities have done a splendid service. However, the countless regula-

* Of the Indiana Bar, Spencer, Indiana.

tions which affect the activities of every client obviously present problems on which one guess is as good as another, and they present perplexing problems to the small city lawyer the same as they do to anyone else. It is hoped that all which are not vitally necessary to the post-war period will be discontinued immediately after the war is over.

All lawyers in the small cities are directly interested in their local banks, some as attorneys for the banks and some as stockholders. The direct competition of the governmental lending agencies with his local bank affects the lawyer as well as the banker. A surprisingly large percentage of the loans in each community which formerly were made by the local banks or individuals or insurance companies are now made by some government loan agency. These mortgages occasionally have to be foreclosed. The attitude of some government lending agencies toward the local attorney on foreclosure has been the subject of frequent criticism in the past and seems to be getting increasingly arbitrary. One of them recently sent to a lawyer in one of the smaller counties in southern Indiana a complaint for foreclosure of a mortgage to be filed in an adjoining county where there are several competent men in the active practice. Every appearance in court would have required traveling fifty miles. The amount recoverable was approximately \$2000. The letter of transmittal directed the attorney to make an examination of the records since the last continuation on the abstract and to perform all services connected with the foreclosure including hunting up the defendants if the sheriff was unable to find all of them, procuring the necessary affidavit pertaining to military service in case of default and drafting the decree and submitting the affidavit and decree to the mortgagee for approval before the decree should be entered for record, advising the mortgagee of each step in foreclosure as it should be taken and furnishing the mortgagee "with copies of all pleadings and a newspaper clipping of the sheriff's notice of sale immediately after the first notice is published." The letter further stated: "Our regular attorney fee for this foreclosure is \$40; however, in view of the fact that it is in an adjoining county, we will increase the fee \$15, making a total fee of \$55 for your services." The necessary appearances in court to complete the foreclosure and attend the sheriff's sale would require enough travel to consume a good

part of fifteen dollars' worth of gasoline if one could get the gasoline. No reason was given for ignoring all the lawyers in the active practice in the county where the complaint was to be filed, nor was any reason suggested why that particular mortgagee should expect that service for only a fraction of what it is actually worth and what other mortgage holders would willingly pay for it. The officials directing the policies of this institution evidently have no conception of what is entailed in the maintenance of a law office, even in a country town. So long as its business requires occasional resort to the local courts in each county where it makes loans, no reason is apparent why this institution should call upon attorneys and expect their professional services except upon a basis which is fairly compensatory.

Any governmental activities in competition with local business institutions should be kept on a competitive basis, and all rules should apply equally to all competitors. Serious post-war problems can be created for the legal profession if its members should encourage and invite further governmental encroachments upon local business by price cutting far below the usual amounts charged to and paid by local clients for a comparable service. The legal profession and local business concerns have always worked together to their mutual advantage. There is no reason why that cannot continue so long as business is kept on a competitive basis. If, in the post-war period, business and industry should be the victim of governmental competition or strangulation which is not necessary to meet an actual and existing emergency, the lawyers of the small cities are bound to be the losers.

Undoubtedly the unavoidable readjustments of the post-war period will present new problems to the small city firms. When business and industrial activities can be resumed on a more nearly normal basis it would seem that it will again give rise to the average amount of litigation which has usually developed in the past. This was true following the last war. Barring further encroachments upon the courts by administrative boards and agencies and further governmental competition with local business concerns, it should be true again.