

POST WAR PROBLEMS—THE SERVICE MAN'S VIEWPOINT

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It may be well to observe at the start the point of view of one serving in the armed forces. The bare suggestion of post war problems may serve to explode carefully nurtured hopes. For men and women of the armed forces probably quite generally believe, or at least want to believe, that no greater problems than that of determining which fork to use at the bar banquets will require their attention in the post war era and that they will be able to resume with the least possible adjustment where they left off at the time of entering military service. Time alone can determine whether such an attitude is anything more than a panacea, and perhaps many recognize it now as such, but it must be accounted as more or less coloring the thinking of those so serving.

What will be the problems of the legal profession after the war? The matter of first importance is anticipation of the problems themselves, so that constructive thought can be applied to their solution. As has been so repeatedly demonstrated in historical experience, and is being so critically demonstrated at the present time by the panorama of divergent viewpoints being voiced with respect to political, social, and economic post war planning, this matter of posing the problems is the highest hurdle that must be overcome. The difficulty of this question is multiplied now by the uncertainty in any attempt to forecast world and state conditions that will prevail, and which so closely and so vitally affect the legal profession.

The problem uppermost in the minds of those serving in the armed forces is the very practical one of a job after the war—a twofold problem, involving first, finding a suitable location in which to practice or otherwise finding a job in pursuit of the profession; and second, reorientation in legal thinking, review, and education in recent developments in the law.

Various estimates have placed the percentage of lawyers (or would-be lawyers) in military service today at from one-fourth to one-third of the entire profession. It is surely

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reasonable to assume, because of the age brackets for men in military service, that many of these had made but little more than a start in the practice of their profession prior to entering the service. The demands of the military for legally trained men to do legal work are so slight, and what legal work the armed forces do require is of such a nature, that the value for civilian practice after the war of experience gained by lawyers in the army can be almost totally discounted.

According to a survey by the Committee of the American Bar Association on Correlation of Post War Work,¹ a great percentage of the lawyers now in service expect to return to the profession after the war. So we are presented with the prospect after the war of one-fourth to one-third of the nation's lawyers at one time seeking employment of one form or another in the profession. Of these, perhaps one-third to one-half will, by reason of previous connections or otherwise, have a definite position awaiting them upon discharge from the service. Assuming that some will take to other forms of employment, there still remains some ten to fifteen per cent of the profession looking for work. Such an outlook is the cause of no little concern to those who fall prospectively within this group.

The problem of relocation of returning lawyers has already come to the attention of the American Bar Association and is being considered by its Committee on Economic Conditions of the Bar and by the War Readjustment Committee of the National Junior Bar. Projects already outlined include the furnishing of information to returning lawyers relative to openings that exist and data for determination of practice opportunities, publication of announcements of returning soldier-lawyers who are seeking connections, provision of office and library facilities to returning lawyers, and encouragement of courts to give preference in appointments to those returned from service.² Certainly assistance of this kind will be much in demand. But it is suggested that the bar organizations go even further, by way of operating something in the nature of employment agencies to actively assist returning lawyers in getting located, and expand their services to include listings of business and other employers

1. 30 ABAJ 194.

2. 30 ABAJ 194, 246.

who seek employees with legal training. Such activities may go beyond the scope of traditional bar enterprises. But it is commonly recognized nowadays that many seek a legal education to equip themselves better for business and other endeavors, and it is suggested that, especially in view of the exceptional circumstances of the time, the Bar may well consider such employments within the realm of its interests.

Every lawyer recognizes the necessity for keeping posted on current developments in the law. Any lawyer in the service can attest the loss of a legal viewpoint and the legal way of thinking as a result of a period of time spent out of contact with the profession. The thousands of lawyers now in the armed forces are kept so busy with military matters of more immediate importance that few have any time or opportunity to give any thought whatsoever to matters legal or to make any serious effort toward keeping posted on current developments in the law. The many lawyers in the service will have spent one or more years at pursuits totally disconnected from the law. It is obvious that the need will be great for refresher courses and courses in recent developments. Conversation with any lawyer now in uniform will disclose concern and interest as to what facilities of this kind may be available after the war.

The demand for services of this kind will probably be great enough to warrant action both by the bar groups and by the law schools. In any community where the number of returned lawyers would furnish sufficient support, the bar association might very well initiate night courses. And the law schools would surely find sufficient interest to support through to completion temporary full-time short courses. For either type of course the author believes the most desirable method of instruction would be to take one particular course at a time and follow it through to completion before starting another. The course should begin with a refresher, devoting whatever time is necessary to a summary treatment of this kind, and then proceed to a more thorough case study of recent developments. In this way most of the regular law school courses could surely be given adequate treatment with two to three week courses for each subject. Special treatment or additional time might be required for certain subjects such as recent legislation, administrative law, labor law, international law, procedure, and taxation.

By using a system of full-time short courses, those who are interested can enroll and attend only those courses for which they feel a need without the necessity for devoting time to those courses they do not wish to attend. It is to be hoped the law schools will devote consideration to this problem with a view to planning curricula and courses of study to offer lawyers at the time they return from service.

The problem of modernization may very well cover under one heading a number of problems for the legal profession after the war. Air travel and otherwise improved transportation facilities are so greatly reducing time distances that changed and new legal concepts are sure to result. Undoubtedly air law will become more and more important. Regardless of the form of international relations after the war, a shrinking world will certainly entail closer relationships between nations and create far more activity in international law than ever before. The developments of science, brought on by the war, will be adapted to consumers' needs, so that it may be open to question whether the great industrial era is hardly more than begun. Many further adjustments between labor, the consumer, and the control of wealth are yet to be worked out. Development of a streamlined system for dispensing the law by quasi-judicial tribunals bids fair to evolve into a completely new system of administrative law, alongside the common law and equity. Certainly the lawyer's ability toward social engineering will have every opportunity after the war to render valuable service in extending and expanding the law in newly opened fields.

Is not a certain amount of modernization due within the profession itself? In many ways the standing of the legal profession could be improved, not only to its own advantage but to the advantage of the general population. It is to be feared that, through misconception of the layman rather than because of dereliction or turpitude among its members, the reputation of the legal profession is not the best, and that nowhere is it held in such high esteem as by its own members. Perhaps lawyers serving in the armed forces, where all classes and occupations live and work together in a heterogeneous organization, can best testify to the mixed attitude of disesteem and superfluity with which the layman all too commonly regards the lawyer. It is too commonly thought that the profession, being non-productive in the com-

mon sense, survives only by knowledge and manipulation of secret and abstruse laws and processes that are kept secret and abstruse for the very purpose of ensnaring the layman. And it is because of fear and distrust of the legal profession that so many people refuse to consult a lawyer except as a last resort, when oftentimes trouble, damage, and loss could have been averted by timely consultation of a lawyer prior to engaging in the enterprise or taking the damaging action.

Lawyers are qualified as social engineers because of technique gained in the study and practice of trouble-shooting on problems of humankind and because the legal profession is a craft that concentrates on clarifying the areas of conflict, tension, and doubt in human relations. In an address at the installation of Coif at the University of Colorado School of Law, Prof. Karl N. Llewellyn of Columbia University, observing that the lawyer's ability as a social trouble-shooter and the reason therefor are not commonly recognized, points out that "because we do not say it to ourselves, we do not say it to others, and others even when they meet it in one of us, think it is not a lawyer's peculiar craft, but think it an accidental human attribute of some particular lawyer."³

Would it not be wise to take steps to apprise laymen of what the legal profession stands for, and why and in what ways the lawyer is qualified as a social trouble-shooter; and to inform them of the services which lawyers have to offer and of the most advantageous way to make use of them? Does the prohibition against advertising set forth in the Canons of Legal Ethics prohibit any and all advertising, even by the organized bar? Much could be accomplished to improve the reputation of the profession by the use of planned, intelligent advertising, both printed and on the radio. May the organized profession consider the problem of educating the layman, via the medium of advertising, or why and how the lawyer is best qualified to serve him.

A problem that has been earlier recognized, and on which positive action may well be taken after the war, is that of making law the tool of the many. Another of the reasons for disesteem of the legal profession is the almost prohibitive expense, in many cases, of the legal process. The profession has alibied under cover of the Canons of Legal Ethics, pointing out that a lawyer is obligated to handle a charity case

3. The Crafts of Law Re-Valued, Karl N. Llewellyn, 28 ABAJ 801.

if appointed by the court, that legal advice is to be denied to none, regardless of the ability to pay, and that ability to pay is a consideration in the determination of fees. But the fact remains that the best legal service is available only to those who can pay the highest price.

Surely the time is none too soon for the profession to concern itself with securing cheaper court action and otherwise cheaper overall dispensation of the law. And may not legal clinics, officially sponsored by the organized bar to furnish everyday legal advice to the many who cannot afford a high retainer, be an outlet for the surplus of legal talent returning to the profession after the war?

The problems mentioned here have been those that first come to mind to one in a position temporarily somewhat detached from the profession and are the ones that seem, from that viewpoint, to be of most immediate internal concern to the profession. But the subject problems may be seen to encompass a much broader scope. To what extent do governmental, political, social, and economic problems become problems of the legal profession? To the extent that law enforcement is entrusted to the legal profession, the profession is an arm of the state. History has long associated the legal profession with parliamentary and executive leadership in government. The nature of the profession is such that its circumstances and welfare are closely affected by prevailing political, social, and economic conditions. Almost any problem of post war planning may be considered in some sense a problem for the legal profession. Opportunities for service by the legal profession in post war planning will be manifold.