

# Lawyer Reference Plans:

## A Manual for Bar Associations

by Robert H. Jackson • Associate Justice of the Supreme Court of the United States

■ The Survey of the Legal Profession published its report on Lawyer Reference Plans on November 21. That evening President Gallagher made a coast-to-coast broadcast on the subject and referred to the work in this field being done by the Association's Committee on Public Relations and its special Committee on Lawyer Reference Plans.

The *Journal* asked Mr. Justice Jackson to comment on this Survey report because of his long-standing interest in this whole field. Many will recall his address to the Junior Bar Conference in 1939 when he was Solicitor General of the United States and for which he selected the arresting title "Briefless Barristers and Lawyerless Clients".

Copies of the report "Lawyer Reference Plans" may be obtained without charge by applying to the Survey of the Legal Profession, 60 State Street, Boston 9, Massachusetts.

■ Lawyers, unfortunately, seldom are able to give much thought to the place and function of their profession in society, because they are preoccupied with the insistent problems of clients which help pay the rent. But they should recognize that, as society is organized in this country, the law office is the very base of the pyramid-like structure on which we depend to administer justice. "It too often is overlooked that the lawyer and the law office are indispensable parts of our administration of justice. Law-abiding people can go nowhere else to learn the ever changing and constantly multiplying rules by which they must behave and to obtain redress for their wrongs." *Hickman v. Taylor*, 329 U. S. 495, 514-515. The law office indeed is the vestibule to the courts.

■ The Bar is given a monopoly of the privilege of rendering legal services. This puts it under a responsi-

bility unlike that of traders. The profession conducts the baffled layman over the rough highway to justice, along which it maintains its own private toll gates. The layman often complains, and sometimes with reason, that the toll is more than the journey is worth and that the cost of legal services places them beyond the reach of a large part of our people. Despite the rather impressive incomes of a few leaders of the Bar (far less enviable after taxes), the law is not on average an overpaid calling. Its rewards are much under those which society pays for some services that seem to me of less social value. I think few really begrudge the lawyer his lot, which traditionally is "to live well, work hard and die poor". Certainly no one acquainted with the functions and conditions of the profession would expect to improve the administration of justice by measures that would further distress

an economically hard-pressed Bar, which in some cities already is demoralized by excessive numbers and sharp competitive practices.

Today any profession that neglects to put its own house in order may find it being dusted out by unappreciative and unfriendly hands. Society shows a growing disposition to call the professions to account for the use made of their privileges. The medical and dental professions have fallen under critical examination, not only in England but also in the United States. Society, of course, has a legitimate and immediate interest in the faithful functioning of the Bar. It is only the part of wisdom for the leadership of any profession to anticipate the problems and difficulties of those it undertakes to serve and to remedy them before they grow to public grievances.

The American Bar Association, anxious about the economic problems of the Bar, chose a distinguished Council to make a broad survey of the profession and induced Reginald Heber Smith to become its director. This group has now made available its report on Lawyer Reference Plans. Its sponsorship would alone assure it of a hospitable reception by lawyers. And its substance is worthy of its sponsors.

In the nature of things, the well-to-do have always been able to get good legal service. It would be a disaster

for the Bar, however, if it could fairly be said that only the well-to-do are well served by it. That fortunately cannot be justly said, so far as I can observe. No better services are rendered in the courts than those by assigned counsel for indigent persons, and lawyers everywhere are rendering such service without fee and often without thanks. The causes of labor and of minority groups are now championed with conspicuous competence as well as zeal. Legal aid societies, fostered in large part by members of the Bar, try to see that poverty does not work a denial of legal service. The development of this service was, as we all know, immensely stimulated by the survey called "Justice and the Poor", by Reginald Heber Smith,—that superb study of a neglected duty that spurred the lawyers better to discharge their collective responsibilities. It is not too much to say that the modern movement to put justice within reach of the poor dates from this study and that the whole project of legal aid owes its strength, if not its origin, to the thoroughness, objectivity and vision of the Smith study. Now he gives us another vital study which places the profession even deeper in his debt.

What is the problem to which the present report on lawyer reference plans is addressed? It is concerned with the difficulties in obtaining legal service that beset what we may roughly call the middle class, that numerous group that is neither well-to-do nor sufficiently depressed to seek or qualify for free legal aid. The reference service is not for those whose need is charity, and it does not dispense any dole payable in legal service. One of its beneficiaries is the hard-working, self-respecting person who is desirous, within his meager means, of paying for what he gets but who does not know where or how to find the lawyer who will serve him for what he can pay. The other beneficiary is the lawyer ready to render for referred clients honest service of approved competency for a moderate stated fee. The two are brought together by an arrangement

offered, managed and supervised by the organized Bar.

#### **Small Income Groups Have Legal Problems**

Small income groups have legal problems almost as complicated as those of a business executive. Humble homes are affected by mystifying provisions of leases for living quarters under which the tenants may be evicted and by the problems of rent controls. They buy goods on the instalment plan and may be subject to overcharge or unjust repossession. Their little affairs raise questions of law concerning debtor and creditor, lessor and lessee, domestic relations, torts and crimes. But their questions often do not involve enough to be worthwhile of solution by lawyers with large overheads to meet. Must they then remain unanswered?

At the same time, we have and continue to produce so many lawyers that a large number hold on and exist by a perilous margin, and some turn to living by methods that bring the profession no credit. The lower-income lawyers, who are not always either the less competent or less trustworthy ones, need clients, while clients are in need of them.

#### **Lawyer Reference Service Helps To Solve Problem**

Let us look at the reference service from the viewpoint of persons whose means are small but who wish, within their means, to pay for the service they need. Many of these do not personally know any lawyer. How will a prospective client find one? The classified telephone directory is nothing but a list on which the name of the police court lawyer, the corporation lawyer, the real estate specialist and the divorce attorney all look alike. He knows vaguely that lawyers, like doctors, have their specialties, that some would and some would not be prepared to deal with his little problem, and that many would demand, and perhaps reasonably, more than he can afford to pay. He has heard all sorts of tales about lawyers' fees. Knowing that there are these differences, how will he find out which is which? Maybe he can



ROBERT H. JACKSON

find some acquaintance who knows, or knows somebody who knows, a lawyer to recommend. But, even so, few laymen will know whether that lawyer is engaged in the line of practice needed or what his scale of fees may be. The prospective client is likely to give up his search and blunder along without advice or help. So we have a client lost to some lawyer and the lawyer out of reach of the client, for want of a medium of contact. That is where the bar association-managed lawyer reference service comes into play.

The problem in its simplest terms is whether, and how, the Bar can provide the machinery to guide this kind of a client into a law office where he will fit. Since 1937 the bar associations of some of the larger cities have been experimenting with plans to this end. The complications of any plan for bringing low-cost legal service to those who are willing and able to pay seem greater than the difficulties of rendering free legal aid to those who cannot pay at all. Associations have met and most of them have overcome innumerable objections and hurdles. This report is not devoted to mere theories. It is a factual study of these actual experiments, and what it teaches are lessons of experience.

How and where should such a service be set up, and is it better managed by a layman or a lawyer?

*(Continued on page 983)*

## Lawyer Reference Plans

*(Continued from page 980)*

How shall the reference lawyers be selected, what obligations shall they assume, and what is their relation to the reference office? How shall the fee be fixed and assured? By what medium may the service be brought to the attention of laymen? Aside from the immediate fee, has the relation of attorney and client so estab-

lished proved productive of other business for the lawyer? Does it prove satisfactory to the client? This study is devoted to those down-to-earth practical questions.

I am not going to dull the edge of this report by trying to summarize its contents. The authors have already boiled it down to the shortest form consistent with imparting the

information essential to an understanding of the program. What I would do is to exhort those who have the welfare of the legal profession at heart to read, mark and inwardly digest this report. It deals with one of those problems that only the organized Bar can solve, and conditions which too long neglected may be exploited to plague our profession.