

legal aid benefits public and student

By ROLAND MORRISON

For the past two years, UNB law students have been devoting much time and effort in an attempt to supply legal aid to the poor of the community. Operating from a storefront office at 65 Regent Street, the students, and the volunteer lawyers who provide professional services for the clinic, have dealt with nearly 500 Civil Law Cases since the Community Legal Aid Service was begun. A provincially funded Criminal Legal Aid office at 92 Regent Street provides legal counsel for all non-civil law cases.

Although legal aid is new to New Brunswick, the concept is over twenty years old. In the early 1950's, Britain, a leader in the field of democratic socialism, adopted what was called a "bold experiment" to provide legal services to the poor in much the same manner as health services were extended to those who otherwise couldn't afford them. This program showed the need for, and the potential success of, legal aid programs in all common-law jurisdictions.

For years, nothing was done in Canada, and low-income litigants had to depend on the charity of their local lawyers. Then, in 1970, Ontario inaugurated what has been claimed to be the most comprehensive legal aid system in the world, patterned after the English Judicare system, with some aspects of the Scottish system, such as the creation of a duty counsel list of lawyers who are on call for the program. The Ontario scheme enables a needy person to hire any lawyer in town, provided the lawyer is willing to work at government rates which are in many cases sufficient only to cover office expenses. The actual administration of the Plan is, however, carried out by the lawyers themselves.

In the year ending March 31, 1971, the Ontario Plan cost that government \$10.2 million. In spite of this, legal aid lawyers were paid an average of \$18.75 per hour in 1970, a relatively low return for the work done and the expenses incurred in handling these cases. Because of this, only 40 percent of Ontario's lawyers are willing to do Legal Aid cases. One big headache they do encounter when they consent to offer their services is the attitude of the Ontario Treasury Board, which they accuse of "nit-picking" in handling their accounts.

The Ontario system of Legal Aid is specially tailored to meet the needs of the poor citizen, and to avoid embarrassment to him. Storefront offices have been established in slum and low-income districts to bring Legal Aid to the doorsteps of those most in need of it, for the poor are unlikely to travel out of their own neighbourhoods, especially not to visit and confide in an unfamiliar lawyer in an alien milieu. In court, no mention is made of the fact that a man is receiving legal aid, nor is such a fact made known to the public. The only possible embarrassment to the applicant is the inspection of his financial ability by Legal Aid officials. This must be done, however, to insure that wealthier citizens are not able to abuse the system by obtaining "free" legal services.

Quebec has what is often thought of as the second-best legal aid program in Canada. It is mostly confined to the Montreal and Quebec City areas in this province, and the poor in rural areas must continue to depend on the kindness of their local lawyers. In 1970, Quebec spent \$300,000 to provide legal services to needy citizens, \$500,000 of which was spent in Montreal.

In order to qualify in Montreal, a person need not be a resident of the city, nor even a resident of Quebec. As long as the person can be identified by a social welfare agency or some charitable organization, his case will be accepted. The duty counsel system does not exist in Montreal, but there is a permanent staff of sixteen lawyers on duty at the courts, preliminary inquiries, and jails, to provide legal advice where needed. Salaries are paid by the Quebec government, ranging from \$7,500 to \$20,000 per year, depending on experience.

In British Columbia, the Legal Aid program is largely funded by the members of the Bar Association of B.C., and has been so for many years. In 1968, the B.C. government contributed 186,000, raising its contribution to \$246,000 in 1969 when 554 cases were dealt with. Divorces aren't handled by the B.C. program except in cases where the health of the wife or children requires it. There is a marked reluctance on the part of the B.C. legal aid system to get involved in actions to recover bad debts. Appeals are discouraged except when it is felt

that they merit the additional expense. There is no duty counsel system as there is in Ontario, though B.C. hopes to adopt one in the near future. However, the Salvation Army maintains personnel at courts and jails and notifies the legal aid offices when there is need for their services.

The other western provinces have low-budget legal aid programs similar to the B.C. model. Payments are usually less than half normal fees for legal aid lawyers, and sometimes barely enable the lawyers to break even. There is little involvement in civil litigation in these provinces because of the limitation of funds.

In the Maritimes, the government participation is even less adequate. It has only been in the last two or three years that provincial governments became active in providing legal services to their needy. Previous to this, legal aid was given mostly through the charity of the local members of the bar.

In 1971, the federal government finally stepped in to help finance legal aid operations. On an experimental basis, neighbourhood offices were funded in Halifax, Saskatoon, Toronto and Pointe St. Charles, Quebec. What is interesting is that these offices were funded by the federal Department of Health and Welfare, and not by the Justice Department. It has only been recently that the Justice Department has funded legal aid, as it did for the student-run clinic held in Fredericton this past summer.

The Fredericton Community Legal Aid Service is run by a council of six students, headed by a student-coordinator. The Board of Directors of the clinic includes the President of the Fredericton Barristers' Society, Professor D. Rouse of Ludlow Hall Law School, and Charles Ferris, a Fredericton lawyer who acts as liaison between the students and the other city lawyers. The Board meets once per month to discuss problems, most of which are financial in nature.

The Legal Aid Clinic, as it is referred to, handles only civil law cases, nearly half of which involve divorce or other marital problems. Currently it is funded partially by a grant from the Federal Department of Justice, and partially by the Canadian Civil Liberties Union. This past summer, an Opportunities for

Youth grant financed half of the cost of operating the clinic from May to August.

Although the New Brunswick Legal Aid Program (confined almost exclusively to Criminal Law cases) pays lawyers to do criminal law, volunteer lawyers at the clinic don't get paid. This creates a problem for the clinic since lawyers who donate their time to the clinic are thereby losing a good deal of income that could have been earned from dealing with normal cases. The clinic does charge a fee of \$25 for divorce cases, although this money is used to cover expenses which quite often amount to \$25 or more, not counting lawyers' fees. Clients are reimbursed when costs fall short of the fee, however.

The Legal Aid Clinic is well-organized, and over half of the students at Ludlow Hall Law School have volunteered their services. The clinic is open from 9 am to 5 pm with students working two shifts. Evening clinics are held when a lawyer is able to visit the office to review cases and give advice. The law students themselves do not involve themselves in legal work of any kind, nor do they give out advice. It is their job to take interviews and select the cases which merit the attention of a lawyer.

When a client comes into the office, he is taken to a private room where he is interviewed by one of the students on duty. If during the interview the student discovers that the interviewee is actually a person of means, the interview is concluded and the person advised to hire a lawyer himself. The Clinic is rather strict with its screening of applicants, though, as a rule, students and people on welfare encounter little difficulty.

After the interview is concluded, the applicant is told that his case will be considered, and he will be informed of the decision shortly. The interview sheet is then placed in a file where it is looked at by an upperclass law student who examines the financial information on the sheet and the remarks in reference to the case. If the case is passed by him, it is then presented to a lawyer who decides what advice should be given, or what action should be taken.

The Clinic maintains its own "Precedent" files. These are past cases that have been handled by the Clinic, and they are extremely useful when similar cases arise. They are labelled "Civil", and "Other Administrative Matters". Clients come from Minto, Geary, Harvey, and from other communities in a 100-mile radius to avail themselves of the services of the Clinic.

"One woman came down from Chatham last summer," said Peter Beardsworth, a student supervisor at the Clinic. "She was under the impression that it was a free divorce service."

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