

N.B. Legal Aid - the ability to not pay

By GEORGE McALLISTER

"The goal is equal justice for all citizens regardless of financial ability to pay. It is to make available to the public those services of solicitor and counsel which a reasonable man would provide for himself had he sufficient means to do so."

This is the concept of "Equal Justice," embodied in a Synopsis of Tentative Draft of Report On Legal Aid issued by the Department of Justice.

The Legal Aid Act which was assented to May 15, 1971 is a "comprehensive criminal and civil legal aid plan based on that currently in effect in Ontario."

The first phase of the Act will be implemented January 1, 1972. This phase will consist of a totally comprehensive scheme under which legal aid may be received by persons charged with criminal offences. This means, however, that coverage is extended only to persons charged under the Criminal Code of Canada.

The remaining phase(s) when implemented sometime in the future would extend legal aid coverage to civil proceedings with only minor exceptions such as "breach of promise of marriage" or "alienation of affections." Otherwise, the extension of legal aid to civil proceedings would include areas such as torts; (ie damages arising from automobile accidents) and contracts (ie landlord-tenant disputes).

It should be obvious that the phase to be implemented on January 1, 1972 will extend coverage to the "crimes" most visible and inimical to society (robbery, theft, assault and arson). It will do nothing to ameliorate the plight of the poor tenants in the south-end

of Saint John nor indeed students faced with a similar problem.

There is indeed an immediate need to have the complete Legal Aid Act implemented,



Under normal circumstances a person must be an ordinary resident of the Province to receive benefits from the plan. Under exceptional circumstances, however, the provincial director can extend coverage to non-residents in the interests of justice.

Financially, "eligibility will be based on a statutory declaration of assets and liabilities supplemented by special checks." The plan recognizes "that the applicant must contribute what he can to the cost of legal services."

This method of analysing an applicant's financial position replaces the arbitrary means test. It will be a welcomed change by those who have been upset over the loss of dignity and pride when subjected to the means test.

However, since Legal Aid is extended only to those who cannot pay the full cost of legal services, society will be

given the opportunity to conjure up images similar to those now associated with welfare. This would, however, be a most unfortunate development.

The Legal Aid plan will be

appointed. It will include representatives of the legal profession, of the public and of the government. Its responsibility will be to act as a "guardian of the public sector."

In addition Area Directors will be appointed in selected regional centers to process legal aid applications and to establish "Duty Counsel Rosters." Duty Counsels will perform pre-arrest functions such as giving advice to all persons appearing in provincial court without a lawyer. They will not normally conduct defenses.

The major cost of the Legal Aid plan will be met by government funds. Recipients of Legal Aid will be expected to contribute to the Legal Aid fund however. In addition "costs awarded in judgement or in settlement become payable to the fund."

Participating lawyers will also be contributing to the fund indirectly since under the proposed plan they will receive only about 75 percent of normal fees. The expected budget for the first six months of operation in 1972 is \$350,000.

Senators Counsel

UNB - The student senators will offer a counselling service for students with administrative problems.

The senators, Vaughn Allward, Peter Ashton, Paul Campbell, Michael Cochrane, and Peter MacDonald will be available for consultation weekdays from 11:30 to 1:30 in Room 33 of the Student Union Building.

The student senators were originally conceived to be a liaison between the Senate and

the Student's Representative Council of which they are non-voting members. They are now moving towards being a liaison between students and the administration.

They do not intend their counselling service to become a 'rap room', but will give guidance and advice to students who have bureaucratic hassles or problems with their professors.

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