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## Undeveloped Legal Service in Columbus\*

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The American Bar Association's Special Committee on the Economic Condition of the Bar made a report upon existing studies and prepared a manual for future studies. The report said: "It is hoped that as many state, local and junior bar associations as possible will set up committees to pursue the kind of studies herein described, and other studies which may suggest themselves; and to discuss and explore and, where feasible, to experiment with measures designed to improve the economic well-being of the profession, consistent with its tradition of independence and its ideal of public service."<sup>1</sup>

Pursuant to the hope above expressed, the Columbus Bar Association undertook to conduct a small survey of potential legal business in Columbus, using the blanks which appear on pages 223-7 of the report of the American Bar Association Committee. These blanks had been used in New Haven in a survey supervised by Judge Charles E. Clark, then Dean of the Yale Law School.

There are several questions which are of interest to lawyers in connection with the problems of expanding their professional services: (1) To what extent do individuals have problems

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<sup>1</sup> *Report of the Special Committee on the Economic Condition of the Bar*, The American Bar Association, 1939.

which might be called legal business? (2) To what extent is that business now taken to lawyers? (3) To what extent are other advisors used? (4) Why is not more business taken to lawyers? (a) Has past service been satisfactory? (b) Can potential clients readily contact lawyers? (c) How do they now select lawyers? (d) What is the opinion of the public about lawyers? (5) How can lawyers render more service to the public?

*Extent of Law Business and Amount Taken to Lawyers*

To find some approximate answers to these questions the Columbus Bar Association undertook the task of interviewing a number of Columbus residents at their homes with respect to personal matters and at their places of business with respect to business problems. There were 334 persons interviewed at their homes and 177 persons interviewed at places of business. These latter included neighborhood business men and downtown business men, with the exception of department store and the "chain-store" merchants. In all instances there was a separation between adjustment matters and preventive matters. The former deal with controversial claims, while the latter deal with transactions not involved in any controversy.

The 177 business men interviewed consisted of 98 downtown merchants and 79 neighborhood merchants. The matters were reported as follows:

MATTERS FOR ADJUSTMENT

*Downtown Merchants*

	<i>Items</i>	<i>Lawyer Consulted</i>	<i>Other Advisor</i>	<i>No Advisor</i>
Accidents .....	18	4	3	11
Inheritance .....	7	4	...	3
Collections .....	33	9	12	12
Rent .....	6	5	...	1
Other .....	12	6	3	3
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Total .....	76	28	18	30

Lawyer consulted, 36.8%

*Neighborhood Merchants*

	<i>Items</i>	<i>Lawyer Consulted</i>	<i>Other Advisor</i>	<i>No Advisor</i>
Accidents .....	13	2	...	11
Inheritance .....	2	2	...	...
Collections .....	20	2	9	9
Rent .....	2	...	...	2
Other .....	11	5	...	6
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Total .....	48	11	9	28

Lawyer consulted, 22.9%

## PREVENTIVE MATTERS

*Downtown Merchants*

	<i>Items</i>	<i>Lawyer Consulted</i>	<i>Other Advisor</i>	<i>No Advisor</i>
Income Tax .....	55	3	19	33
Other Tax .....	65	1	7	57
Gov. Regulation .....	45	...	6	39
Rent with Lease .....	18	3	1	14
Property Arrangement ..	4	2	0	2
Will .....	6	6	...	...
Mortgage .....	10	3	...	7
Other .....	4	1	...	3
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Total .....	207	19	33	155

Lawyer consulted, 9.1%

*Neighborhood Merchants*

	<i>Items</i>	<i>Lawyer Consulted</i>	<i>Other Advisor</i>	<i>No Advisor</i>
Income Tax .....	13	2	2	9
Other Tax .....	...	...	...	...
Gov. Regulation .....	...	...	...	...
Rent with Lease .....	5	2	...	3
Property Arrangement ..	2	1	...	1
Will .....	...	...	...	...
Mortgage .....	4	2	...	2
Other .....	3	3	...	...
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Total .....	27	10	2	15

Lawyer consulted, 37%

The downtown merchants reported a total of 283 items. This is about three items per person. The New Haven study

reported four items per person for their 61 neighborhood businessmen interviewed. However, as to the quantity of items, there is not a great deal of accuracy, as the judgment of the persons interviewed may vary widely upon what is considered as an item to be reported. However, the report as to the use of the lawyer upon the items mentioned is reasonably accurate.

The lawyer was consulted by the downtown business man in 36.8 per cent of his adjustment problems. This is somewhat less than is shown in the New Haven study which was 44.5 per cent. In his preventive matters he consulted a lawyer in 9.1 per cent of his matters which is some larger than in the 4 per cent in New Haven.

The report of an individual about matters which are potentially legal may be faulty, but any person knows whether or not he consulted a lawyer at all. Of the 98 downtown merchants who would be expected to have problems likely to involve some legal question, there were 60 who did not consult a lawyer at all last year. There were 21 who consulted lawyers on adjustment matters only, 12 who consulted lawyers on preventive matters only, and only 5 who consulted lawyers on both adjustment and preventive matters. This would indicate not a very general use of attorneys by business men.

In order to get a broader picture of the percentage of matters taken to a lawyer, another group of intermediate business men were interviewed and interrogated as to legal business within recent years. There were 176 items of adjustment matters of which 40 per cent were referred to lawyers. These merchants reported 73 preventive matters of which 39.7 per cent were handled by attorneys. This latter figure differs markedly from the report of the downtown merchants in Columbus or the merchants reporting in New Haven. The figure, however, is similar to the report of the neighborhood merchants in Columbus where 37 per cent of the items were referred to attorneys. The difference can probably be accounted for by the fact that the neighborhood business men reported

a smaller percentage of problems concerning taxation and government regulations. These are seldom referred to attorneys.

As would be expected there is a difference in the reports made by residents. The items reported by the 334 interviewed were as follows:

## ADJUSTMENT MATTERS

	<i>Items</i>	<i>Lawyer Consulted</i>	<i>Other Advisor</i>	<i>No Advisor</i>
Accidents .....	51	7	...	44
Inheritance .....	26	20	1	5
Divorce and Alimony ..	2	2	...	...
Rent .....	9	4	...	5
Merchandise .....	7	...	...	7
Bills .....	6	...	1	5
Other .....	18	3	...	15
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Total .....	119	36	2	81

## PREVENTIVE MATTERS

	<i>Items</i>	<i>Lawyer Consulted</i>	<i>Other Advisor</i>	<i>No Advisor</i>
Rent with Lease .....	125	14	1	110
Income Tax Return ..	113	10	3	100
Property Arrangement .	21	8	1	12
Will Drawn .....	12	10	...	2
Mortgage .....	14	2	...	12
Other .....	2	1	...	1
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Total .....	287	45	5	237

Of the adjustment matters 30 per cent were referred to a lawyer which is somewhat less than the 44.6 per cent reported in New Haven. Of the preventive matters there were 15.6 per cent referred to a lawyer. This again was less than the 19.2 per cent reported in New Haven.

The 334 residents reported a total of 406 items or 1.21 item per person. However, this total includes the 124 items of rents with lease which were reported by the residents of the Olentangy Village. As most everyone had this problem during the past year because of the recent occupancy of this set of

apartments, this item should be excluded if one is attempting to get an accurate report of the typical situation. With the omission of this item, the residents would average .84 of a case per person which is nearer the figure .76 reported by residents of New Haven.

This evidence of potential law business is not very conclusive because no one can tell how many of the items are significant enough to go to a lawyer. Certainly the large number of written leases signed by the residents of the Olentangy Village were not all potential law matters. Of the 124 leases 14 were submitted to lawyers for advice.

There would probably have been occasion to use an attorney if a tenant desired to ascertain all his rights and liabilities under the lease. The document consisted of three pages of fine print containing about 3800 words, and included, in addition to the usual provisions, an agreement not to remove any personal property from the premises until the rent was paid, and an authorization to the landlord to attach such property for any past due installment of rent. The tenant waived right of appeal from any judgment, and waived stay of execution or exemption from civil process. He also gave a warrant to any attorney to appear and confess judgment in any ejectment action. These and other provisions provide ample reason to seek a lawyer's advice if one is disposed to find out his complete legal rights and obligations under this lease. One can never be sure how much use there will be of more legal services until such service is made more readily accessible in that area and a state of saturation is secured.

There is considerable talk about the unlawful practice of law by real estate men in signing contracts, leases, etc. Here there was no evidence of an intermediary as the tenant executed the lease with the landlord or his agent. But all the talk in the world about wrongful work of real estate agents will not induce the client to go to the lawyer unless the lawyers set up some sort of machinery to attract these small items of busi-

ness, and to hold that business by charging an amount that will be considered reasonable for the service rendered.

To get another picture of the tendency to consult a lawyer, a more specific analysis of the accident claims will be made.

*All Accident Claims**Automobile Accidents*

	Total	Lawyer Advisor	Per Cent Handled by Lawyer	Total	Lawyer Advisor	Per Cent Handled by Lawyer
Downtown Merchants . . .	18	4	22	12	2	16.6
Neighborhood and Intermediate Merchants . . .	63	21	33.3	52	17	32.7
Residents . . . . .	51	7	13.7	35	6	17
Total . . . . .	132	32	24.2	99	25	25.2

In contrast with the accident claims are inheritance and will matters.

*Inheritance Matters**Wills Drawn*

	Total	Lawyer Advisor	Per Cent Handled by Lawyer	Total	Lawyer Advisor	Per Cent Handled by Lawyer
Merchants . . . . .	23	16	69.6	11	11	100
Residents . . . . .	26	20	77	12	10	83
Total . . . . .	49	36	73.4	23	21	91.3

Of the 72 inheritance and will matters 79.1% were handled by lawyers.

This would indicate that in those areas where the value of a lawyer's services is more apparent he will be consulted, but in the accident field where the value of the lawyer's service is not so apparent, his services are sought less frequently. The reasons for this may be due to the opinions and attitudes which the parties have with respect to lawyers.

*Extent to Which Lay-Advisor Is Used*

The information previously tabulated has been directed primarily to the two questions, first, how many matters are now encountered by business men and residents which may be considered potential law business, and second, how many of those matters are now taken to lawyers. The next and related ques-

tion is how many of such matters are taken to advisors other than lawyers.

The reports indicate that there seems to be very little unauthorized practice of the law in these areas contacted. Of the adjustment matters encountered by business men, there were 21 per cent handled by non-lawyers. If the collection agencies were eliminated, this percentage would be less than 5 per cent. Of the preventive matters encountered by business men there were 15 per cent handled by non-lawyers. If the accountants were eliminated in tax matters, this percentage would be less than one half of one percent.

The use of the lay advisor is even less among the residents, being 1½ per cent for all matters, adjustment and preventive. If the accountants were eliminated there would also be less than one half of one per cent. Of the 1000 items reported by all persons there were only 15 which were handled by laymen other than accountants and collection agencies, and most of these were designated as a relative or a friend.

The fear upon the part of lawyers that lay agencies are encroaching upon the practice seems to be somewhat unfounded. A more substantial peril is the fact that the client is not getting advice from any source. This is seen very strikingly in regard to accident cases. Informants reported that many of their claims were handled by insurance adjustors. Such person was a representative of the other party, and therefore the claimant had no advisor working in his interest. The unwillingness of the claimant to use the lawyer in such cases because of ignorance of one's rights or because of fear of the consequences is a more serious peril to law practice than any possible unlawful practice in that field.

#### *Are Legal Services Unsatisfactory?*

To what is this distrust of the lawyer, or this unwillingness to use his services due? Is it due to the unsatisfactory services which the lawyer has rendered in the past?



the fact and also to report that he has reason to have that opinion. It is probably more than a mere inference that may be drawn from the assumption that there are crooks in all vocations. In reporting the reason for an adverse opinion there were 18 who mentioned newspapers as a source or partial source of the opinion. The rest reported that the opinion was based upon personal experience or the experience of friends.

The opinions expressed by the residents in Olentangy Village were much less critical, because many stated that they had very little contact with lawyers. Thirty reported that lawyers were "O.K. as far as they knew"; 36 reported that "majority were O.K."; 35 stated that the lawyer's character depended on the individual; 31 had a more critical opinion with varying degree of criticism, 8 of which dealt with excessive fees.

Here again there were about 15 per cent who reported that they had read of cases where lawyers were crooked, or ambulance chasers, or had taken fees from estates which were larger than the share to the heirs. There were less than 10 per cent who had very strong adverse feelings based upon personal experience.

#### *How Can Lawyers Render More Extensive Service?*

The final question raised by this survey is how can lawyers render more service to the public and possibly meet the need in this field of undeveloped legal service? There are three methods of tapping this potential legal service. First, there could be set up an organized Legal Service Bureau or Neighborhood Law Office sponsored and supervised by the bar association. Second, there could be a legal reference service set up by the bar association to aid the potential client in getting contact with a lawyer. Third, there could be more attention paid to the bar's public relations so that members of the public would better understand legal service and not be so fearful of contacting the lawyer. The public could also be better informed of the value of some small service in the field of preventive matters.

The Legal Service Bureau has been much discussed and is in a way being experimented with in Philadelphia by the Neighborhood Law Offices set up under the sponsorship of the Philadelphia Chapter of the Lawyers' Guild. This is primarily a large city venture where there are groups of people who have claims of similar nature which can be handled on a large scale and at a charge which would attract and hold that type of service.

The existing system cannot properly handle the small matters which come to a lawyer. They may be problems that the lawyer does not customarily handle and he is required to do considerable investigating of the substantive law and procedure involved. The lawyer expects the business to partly pay for this educational experience and thus he feels obliged to charge more than the type of service will ordinarily afford. This may be "practicing" law but it is not in the sense usually understood by clients. The client feels that the service is not worth the cost and does not return. In some instances he may seek lay agencies. To meet this low priced service an organization is suggested to handle cases in such quantities that the lawyer can afford to render the service at a price which the client can afford to pay.

Does the Columbus survey indicate an undeveloped service in large quantities? There was one large item of legal service by the residents in Olentangy Village. Practically everybody (124) had executed a lease within the year, and of these 12 per cent had consulted lawyers. It may be seriously questioned whether many of these problems involve questions where the particular interests of the client requires special legal advice. At least the cases are not numerous enough in the general run of residents to say that here is a need for a special bureau. The next item of any size encountered by residents was the income tax return. About 10 per cent sought legal advice and 2½ per cent sought accountants. Here again it may be questionable whether these problems are ones which a lawyer should solve or whether the problems are merely ones of bookkeeping.

It does not appear from the Columbus survey that there would be much demand for a Legal Service Bureau which is set up for the purpose of handling a large number of similar problems.

If the Bureau is merely set up to handle general business of a small nature, then other devices might be adopted to attract the business to regular law offices.

The second agency suggested to attract business which does not now find its way to a law office is the Lawyers' Reference Service established by the bar association. By this agency a client may get contact with some lawyer who is familiar with the particular type of problem. Some lawyers question the necessity of such an agency because a stranger wanting a lawyer could go to a telephone book and select one. However, very few lawyers are selected that way.

Inquiry was made of the downtown business men and Olentangy Village residents to find out how they selected their lawyers. They reported

	<i>Downtown Business</i>	<i>Olentangy Village</i>
Previous service .....	25	5
Friend .....	23	33
Recommended by friend .....	5	8
Relative .....	3	1
Offered help personally .....	1	1
Offered help by another .....	..	1
	—	—
Total reporting .....	57	49

Of these persons reporting 81 per cent reported that their lawyer was selected either because of previous service or because he was a friend. Of the new contacts with lawyers 72 per cent reported that they went to a lawyer who was a friend, or 97 per cent went to a lawyer with whom there was some personal contact either because he was a friend, a relative, or recommended by a friend. These same persons were asked whether their lawyer was recommended by their doctor, their banker, the police, a neighbor, or because of having read about the lawyer in the newspaper or for any other reason. No one gave

any of these latter reasons. Especially, no one stated that he used the telephone book to get the name of his lawyer.

This report bears out the impression held by most lawyers that most of his new business comes from his friends. This may be the reason that he has joined most of the lodges and luncheon clubs. However, the effort of the individual lawyer has been about exhausted unless the calendar is revised and more luncheon clubs can be formed. If individual effort cannot be used, then the organized bar should adopt some measure to assist the lawyer getting in contact with the new client. This situation would seem to suggest the advisability of establishing some reference bureau or service whereby the prospective client could more readily get contact with a lawyer who was specially qualified to handle the particular problem involved. This device was recommended by several of the business men interviewed. The questions were specifically asked of the Olentangy Village residents. They reported

Reference Bureau would be of value.....	107
Would be of no value.....	4
May be of some value.....	6
No opinion .....	7

One of the incidental benefits of a reference service is the opportunity it affords of developing and publicizing some system of charges for consultation or other standardized service. One of the frequent objections raised by business men was the almost prevalent practice of lawyers to make no charge for a simple consultation service. The lawyer usually states that the matter could be handled at a later time. The client states that he usually does not return to the lawyer as he figures that he may be charged an extra amount even including the services rendered to others. One of the values of the system experimented with in Philadelphia is the definite understanding the client has of the cost of the legal service which he seeks.

The third remedy to assist this group of unserved clients is the establishment of better public relations by giving certain publicity and information about legal service. The greatest

need is to get better newspaper publicity about legal service and to avoid creating the impression that lawyers' services are to be feared and avoided. More specific information can be given by the organized bar of the inherent nature of the lawyer's service. Attention should also be given to the various activities which show more accurately the lawyers' real contribution to public welfare.

#### SUMMARY

The following items are tentatively suggested by the survey. It must be recognized that it is impossible to draw too definite conclusions from the sample which was selected. However, the following items of interest are suggested:

1. People, including business men, are not in the habit of taking a substantial number of their potential legal problems to lawyers.

2. They do not take them to lay agencies to any appreciable extent.

3. When lawyers are employed, their services are reasonably satisfactory.

4. There is a considerable impression that the cost of handling small matters is disproportionately high.

5. There is an adverse opinion about lawyer's services which is out of proportion to the actual experience of those persons with lawyers.

6. Persons ordinarily contact a lawyer because of previous service or because he is a friend.

7. There is overwhelming approval of a system of reference whereby a person may be able to more satisfactorily contact a lawyer.

8. The remedy lies in some concerted effort on the part of the organized bar to: (a) establish agencies to render the legal service under circumstances which will attract the business; (b) arrange some system of referring clients to lawyers; or (c) give

more attention to correcting the public's misunderstanding of the nature of the lawyer's work and the cost thereof.

On numerous occasions lawyers have recognized that they hold a franchise to practice law and thereby enjoy a monopoly of this very important service. This privilege carries with it corresponding responsibilities. If the control of the administration of justice is to be exclusively given to the legal profession, it must be zealously guarded and not restricted to those who can well afford the service nor to those who are recipients of legal aid. But the large class of citizens who can pay moderate fees must be likewise served, so that equality of justice may be as true in the law office as in the court room.