



PennState
Dickinson Law

DICKINSON LAW REVIEW
PUBLISHED SINCE 1897

Volume 42
Issue 3 *Dickinson Law Review - Volume 42,*
1937-1938

4-1-1938

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Recommended Citation

Robert D. Abrahams, *Law Offices to Serve Householders in the Lower Income Group*, 42 DICK. L. REV. 133 (1938).

Available at: <https://ideas.dickinsonlaw.psu.edu/dlra/vol42/iss3/2>

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LAW OFFICES TO SERVE HOUSEHOLDERS IN THE LOWER INCOME GROUP

Robert D. Abrahams*

The average householder in a large city, faced with a medical problem, usually consults a doctor. But when he has a legal question, he visits a real estate man, a notary public or a neighborhood petty politician.

There are several reasons for this attitude. First, there is a great deal of mystery regarding lawyers' fees. The householder has heard about the 50% fee of the negligence practitioner, and it does not give him a great deal of confidence in his ability to secure legal services at a fair rate. Often, his only contact with a lawyer has been with the man who knocked at his door after an accident, handed him his card and asked to be allowed to represent him. Second, to visit a law office often involves a trip from the client's home to the center of the city, because in every large town the law offices are grouped around the courts. It is as though physicians placed their offices in a row across the street from a hospital, for convenience's sake. Such a custom would probably serve the doctor's convenience, but certainly not that of the patient.

If the young lawyer of no particular connections, setting out to practice in an urban community, is not content to spend his life like the filament in an electric light bulb—merely glittering in a vacuum—he must be available when he is needed, as is the neighborhood doctor, the neighborhood druggist and the neighborhood real estate man. He cannot expect to sit in an office, miles away from the source of his clientele, and expect clients to come and find him. They will not find him. Neither will they find his competitor who is sitting across the hall from him. Instead, they will find a layman who will advise them. The tragedy for the profession is that many clients, when faced with a problem with which an attorney is best equipped to deal, not only will not visit a particular lawyer, but will not visit any lawyer at all. And this in a world in which, to begin with, there are too many lawyers.

The principal reasons for so much law practice going to lay agencies are three:

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1. A fear of expense.
2. Over-centralization of law offices and the sparsity of such offices in districts in which the average man lives, and
3. Disagreeable contacts by potential clients with runners and negligence practitioners.

The business man has, in large measure, learned to depend upon the best available legal advice for the solution of his business legal problems. But the business man gone home at night may leave his lawyer downtown. Very often, the same business man who would not think of entering into an important contract in connection with his business without consulting an attorney, will sign a lease for his home or enter into a contract for repairs thereon without thinking of consulting a lawyer. Any consideration of the problem of balancing the services which the legal profession has to offer with the needs of the community, will convince that the community lacks some legal services it should have available to it, and that the lawyers lack clients who, had they the opportunity, would gladly consult them.

Having agreed upon the need for such service to the householder by the lawyer, what can be done about it?

The law practice can be decentralized; the mystery can be taken out of the fee system and layman practice of the law can be stopped.

For some time, there has been under discussion in Chicago a plan by which a legal service bureau would be set up in that city, sanctioned by the Supreme Court, staffed by competent lawyers, and with permission to advertise its services. This bureau would be in no sense a charity, and should not be confused with legal aid societies which serve persons who cannot afford to pay counsel. The function of this agency would be to serve low income groups, which groups ordinarily now do not consult attorneys when the situation would indicate that it would be proper for them to do so. The bureau would draft various legal papers, handle wage and rent disputes, garnishments, claims of alimony, seizures of property under conditional sale contracts or chattel mortgages, foreclosures on small homes, workmen's compensation cases and insurance claims, certain proceedings in probate, divorce and criminal cases, and some tax matters.

While this plan seems preferable to any leaving the lower income group unserved, it lacks one element which is most important, if this group of clients is to be attracted to the services of attorneys. What is lacking is decentralization. The type of person who now does not consult a lawyer will not travel to a centralized bureau for this purpose. No doubt such a bureau would have an impressive number of cases, but many of these cases would have come to a law office in any event. From my experience in private practice and in legal aid work, I know that it would be desirable to decentralize even legal aid, from

the standpoint of service to the community. Legal aid could render twice the service which it now gives if legal aid offices were established in various neighborhoods, rather than in a centralized place. The reason this has not been done is because legal aid is a charity, and the increased overhead necessary to maintain proper standards of legal aid service in more than one office at one time would make such operation prohibitive. But since the plan for offices to serve householders should be on a self-supporting basis, the reason for centralization does not exist.

The lawyer in the large city receives the work which would have gone to a barrister under the English system, but he has only a part of the work which would have gone to a solicitor under that system. The natural place for a barrister to have his office is in proximity to the courts, but a solicitor's office should be near those for whom he is acting. Since under the American system every lawyer is expected to be both solicitor and barrister, a decentralization of law offices would lead to difficulties in the trial of cases on the part of the attorney who is in a neighborhood not near to the courts. Decentralization of the courts is not usually practicable, for decentralized courts increase the overhead of government.

It seems, therefore, that the lawyer intending to develop a neighborhood practice must either adopt the device of having specific office hours in the neighborhood and another office, or desk room in an office, convenient to the courts; or he must arrange with a trial office to try his cases for him, and be content to develop his practice in his neighborhood, without going to court himself.

Very often, the lawyer who is not in daily trial practice does better to take his case to a specialist in the particular field of trial in which the action falls. His client often secures a larger recovery than he would have had otherwise, and because of the increased verdict the referring lawyer receives as large a fee for himself as he might have received had he tried the case without the benefit of co-counsel. The growth of such a referral system should tend to elevate the trial practice, since it would concentrate such practice in the hands of a smaller number of lawyers.

The course of legal establishments in our larger cities has followed roughly the pattern of the course of retail business in such cities. When the carriage and horse-car age passed, and cheap and speedy transportation became available to persons living in outlying sections, great, unspecialized mercantile establishments arose in the centers of the cities. These establishments, because of their high buying power, and because of the convenience to the customer in having but one store to visit to fill many needs, succeeded; but as our cities become more congested, there has become apparent a trend to decentralize. Householders now desire to shop in their own neighborhoods, because of the traffic difficulties

involved in journeying into the heart of a city. Therefore, many of the largest department stores are establishing branches in suburban and in industrial neighborhoods.

The legal profession has come to the stage which the department stores reached about fifteen or twenty years ago. It is time now that the lawyers, like the storekeepers, learn their lesson in decentralization, which is that the added business brought in by decentralization would be more than sufficient to cover the increased overhead.

The program for such decentralization ought to involve:

1. Bringing a law office with high standards of ability and ethics to the neighborhood, industrial, or suburban community.
2. Doing away with all mystery concerning fees, by establishing fees in ordinary matters not involving litigation on the basis of a time rate, as does the neighborhood physician— so much for the first visit, so much for the succeeding visits, the rate to be based on the amount of time consumed by the interviewing attorney and the amount of time necessary for the preparation of documents and for legal research in a specific case. Such rates should be established by voluntary acceptance of standards by the lawyer himself, in return for which he would have the right to hold himself out as being ready to practice under such standards.
3. Stamping out of unauthorized practice by an aggressive stand against the giving of legal advice and drawing of legal instruments by notaries public, real estate men, bankers and other lay persons.
4. Encouraging young members of the Bar to set up neighborhood law offices to conform to uniform standards of practice, to which the average householder may go with foreknowledge of the type of service he will receive and the fee he will pay therefor, by publicizing on an important scale this decentralization activity of the Bar and of the standards set up for such practice.
5. Supervision of the standards of such offices by some central agency, preferably by a Committee of the local Bar Association.
6. Development of a plan for financing such neighborhood offices and of a standard tie-up between such offices and central city trial offices.

In many neighborhoods in a large community, it will be found that the number of lawyers having offices in such neighborhoods consisting of more than a mere sign upon their homes, is grotesquely out of proportion to the amount

of potential law business in the neighborhood. Often, a certain stigma seems to attach to the man who does not have a central city office.

Where neighborhood lawyers are practicing, no effort should be made to set up opposition offices. Instead, the drive should be toward having such practitioners accept the standards formulated by the agency for such practice. Where lawyers refuse to accept such standards, the field should be left free for entry by other lawyers.

In neighborhood communities where few or no lawyers are found, young lawyers should be encouraged to set up offices in conformance with the standards. Those accepting such standards and submitting to the agency's supervision regarding the same, should be entitled to display a legend to that effect upon their doors and upon their letterheads. A printed set of standards, including standard fees, should be available for inspection by a client.

The fact that such offices are available should be publicized in the neighborhood or district in which the office has been set up— not by advertising in a direct sense, naming specific offices, but by bringing to the community through articles in community newspapers, radio broadcasts and through community organizations, the method under which such offices operate, and what the standards are with which such offices comply.

The ethics of such general advertising may be open to question under the present canons. Some Bar Associations are now using general advertising campaigns to benefit the whole Bar. Such a campaign to acquaint the public with the establishment of the new type of neighborhood law office to serve householders ought not to be unethical, where specific names of attorneys and locations of offices are not used. If a change in Canon 27¹ of the American Bar Association Canons be required, in order to permit such advertising of a general program, then such change ought to be made. Certainly the framers of Canon 27 could not have foreseen present-day conditions in our larger communities.

¹"ADVERTISING, Direct or Indirect. The most worthy and effective advertisement possible, even for a young lawyer, and especially with his brother lawyers, is the establishment of a well-merited reputation for professional capacity and fidelity to trust. This cannot be forced, but must be the outcome of character and conduct. The publication or circulation of ordinary simple business cards, being a matter of personal taste or local custom, and sometimes of convenience, is not per se improper. But solicitation of business by circulars or advertisements, or by personal communication or interviews, not warranted by personal relations, is unprofessional. It is equally unprofessional to procure business by indirection through touters of any kind, whether allied real estate firms or trust companies advertising to secure the drawing of deeds or wills or offering retainers in exchange for executorships or trusteeships to be influenced by the lawyer. Indirect advertisement for business by furnishing or inspiring newspaper comments concerning causes in which the lawyer has been or is engaged, or concerning the manner of their conduct, the magnitude of the interests involved, the importance of the lawyer's positions, and all other like self-laudation, defy the traditions and lower the tone of our high calling, and are intolerable."

Such offices will have to be financed by a foundation or group of persons interested in promoting an experiment which may be of extreme importance to the future welfare of the Bar. Such offices should and will be self-supporting, once the community has gained a knowledge of their existence and confidence in their functions, but there will be a period between the establishing of such offices and their achieving popularity with the laity which will require financial backing sufficient to tide them over.

The questions raised in envisioning such a plan are many and important. It is not intended at this time to answer such questions. Much preliminary study will have to be made in order to insure the success of such a plan.

Standards of fees will undoubtedly vary in different communities. Should these standards be fixed differently, to meet variable conditions in neighborhoods, or should they be uniform in any one city?

Should the office be staffed on the clinic system, having many lawyers serving part time, such lawyers to have other office connections of their own; or should it be staffed by full-time lawyers, who have agreed to accept the standards for such offices, and who, along with other such offices, will arrange for central trial counsel on a fee-splitting basis?

How far may advertising go, in calling attention to the existence of offices within a particular neighborhood which accept such standards?

How many cities in the United States, because of their size, would benefit by such decentralization? Obviously, the plan is not one for the small town, where the entire community is really one "neighborhood."

Should such a plan be tried simultaneously in a group of large cities, or would it be better to select one locality and open such offices in that locality only for experimental purposes, under the strict supervision of an active and interested committee?

The most troublesome question of all:

What clients, if any, are to be refused service in such an office? Those who cannot afford to pay an attorney will be taken care of by the local legal aid agency set up for that purpose, and which now functions in practically every large city. But what of those clients who come with complex business problems, and who ought to pay more than the time visit rate?

I believe that this problem, although it may lead to confusion at first, will clarify itself. Just as there is a type of patient who consults the neighborhood physician and another type who sees an expensive central-city practitioner at once, so the important business client will usually seek a central-city business law office. Where he does not, he can be excluded from the benefits of the fee schedule by strictly defining the services for which such fees are to be charged, and making all other advice subject to arrangement between the attorney and the business client.

Contingent fees, such as in negligence cases, will also present a problem for study by any committee attempting to set up standards for neighborhood practice.

The task of such a committee will be an extremely difficult one. It will have to contend with hostility on the part of laymen who are now illegally practicing law. It will also draw upon itself the hostility of certain conservative members of the Bar. It will be faced with many practical problems for which it will have to find speedy solutions.

Is it worth the effort?

Both from the standpoint of a community need, which now goes unserved, and from the standpoint of the economic welfare of the average lawyer, it would be very much worthwhile.

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