

THE STUDENT LEGAL SERVICES PROJECT—1969

Background

Accessibility has long been recognized to be a prerequisite of effective legal assistance. In spite of the efforts which have been made in the past to increase this accessibility, barriers continue to exist which prevent individuals from finding the legal assistance which they require. These barriers may be financial, social or psychological, and in each case prove to be very real to the people who encounter them. Having observed this, a committee of students from the Faculty of Law at the University of Alberta began to develop a plan for putting the knowledge and resources of the law students at the disposal of underprivileged persons in one area of the city of Edmonton.

Boyle Street was the site chosen. Its problems are not unique; they exist in other parts of Edmonton, but in almost no other area of Edmonton is there such a concentration of residents in the lower socio-economic brackets; thus Boyle Street appeared to be most in need of a service project. As well, the area has a sense of community, due largely to its geographic situation, lacking in most other districts in the city, which would facilitate the project workers making contact with the people and more easily permit an analysis to ensure that the work being done was actually suited to the needs of the area. Also, the great diversity in the constituent elements in the area from the transient population, to the families, the pensioners, the ethnic groups, offer the student workers there a broad range of experience.

The idea of student involvement in legal aid programs is not new to Canada. Osgoode Hall Law School has had a Student Legal Assistance Program since the early 1960s and in the past year the University of British Columbia initiated a similar project called the Inner City Service Project whose objects are to help the low-income groups in the community and to educate and legislate for a better society. Inspired by those projects and the immense need which exists in Edmonton, the Student Legal Services Project came into being in May of 1969.

The Committee involved with the project outlined three general objects for the pilot-project phase:

- (a) To help the residents of the area in making contact with existing sources of legal aid and other help; to provide actual legal aid and advice;
- (b) To increase the awareness among the area's residents of their situation as citizens, particularly regarding the law;
- (c) To analyze certain existing legislation as to its effectiveness and to suggest changes in legislation and new legislation when it is deemed necessary.

To carry these objectives forward two research assistantships were provided through the Faculty of Law which enabled one second and one third-year law student to begin work in the area during the four summer months. Office space was obtained in the Boyle Street Information Centre and in the Edmonton Day Centre, both locations being central to much of the community traffic. The day centre location was also occupied by the Student Health Involvement Project (S.H.I.P. Clinic)

which is a health service for needy persons sponsored by the Faculty of Medicine at the University of Alberta and staffed by medical students. Incidental expenses of the legal aid project were met jointly by the Faculty of Law and the Law Club.

With this behind them, it became the task of the workers to proceed with the pilot project phase and to determine if there existed a need in Boyle Street which law students could help to fill. From the outset there was complete unanimity on the idea that the object was to fill the gaps rather than attempt to duplicate services.

Because it was felt that co-operation with and full knowledge of the activities of the other services in the area was essential to the success of the project, the initial efforts were directed toward interviewing personnel from a wide variety of agencies which serve the Boyle Street community and writing up briefs on their activities. This also served as an excellent opportunity to make the Student Legal Services Project known. The information gathered was very useful in helping to reach the first objective of the project: to help the residents in making contact with existing sources of legal aid and other help.

General Approach to Individual Problems

Upon first contact with an individual an interview was conducted in order to determine the facts and then an attempt was made to formulate the issue at hand. If the situation was one requiring legal advice the problem was researched by the workers and the advice to be given was then checked over by a professor from the Law School. This ensured that the advice given was correct and could therefore be acted upon with confidence. In the event that the problem could be looked after by an existing agency, the client was referred to that agency and an initial appointment was arranged. Some agencies contacted in this fashion were Legal Aid, Family Court, the Department of Social Development and the John Howard Society. Of major concern here was that the client be encouraged to develop confidence in his own ability to carry out these procedures and therefore care was taken to prevent the client from becoming dependent upon the worker for assistance in those matters after the initial efforts. In these referral situations, the earlier personal contacts with the agency personnel paid large dividends as direct contact could be made on familiar grounds rather than becoming delayed in the customary "red tape" of large bureaucracies.

Early in the summer it became apparent that many of the people who required the type of assistance provided by the Student Legal Services Project did not have access to the offices in Boyle Street. Consequently an experimental court service and a service to the Fort Saskatchewan Provincial Gaol were initiated. At the beginning of the summer, requests had been received for the workers to interview individuals in the city cells as these individuals had no legal counsel. After the interviews, most were encouraged to make application to Legal Aid in order to have a lawyer appointed and those who obviously did not qualify for Legal Aid were able, through the worker, to initiate some efforts on their own behalf on the outside. In the latter case, the workers were often able to coach the accused on how to best present

his case to the Court. The efforts at the jail were primarily geared to aiding prisoners with their civil legal problems while they were confined.

A system of "externs" was also established which utilized the services of the committee members by having one member work closely with a specific group or club such as the Garneau "drop-in" Centre and the City Centre Men's Co-operative. This brought into view other specific problems which existed in group situations and provided an excellent opportunity to involve a greater number of students in the student-client situation, something which was impossible to do if only the routine office practice had been maintained. All of these efforts constituted part of the attempt to determine the needs of the community and the possibility of law students filling that need. At the same time efforts to fill the apparent need were carried on through the legal advice and the referral system. In each individual case, where possible, the workers endeavored to go beyond the solution to the legal problem in an attempt to participate in the solving of the social problem as well.

Legal Education of Citizens

Education of the citizen about his legal rights and responsibilities and the legal system is a fundamental objective of the Student Legal Services Project. Legal education must be extended to the public, not on a level that approximates the training of a lawyer and not for the purposes of substitution of the private practitioner, but in order to raise people to a level of awareness from which they will recognize the full significance of their rights and responsibilities in a society organized under the Rule of Law. This type of educational elevation will not come merely through students becoming involved with individual problems, but only through a large-scale campaign which will introduce the citizen to various areas of the law. The work of the first months has accentuated some of the areas which need early attention. Some of these include the law in relation to landlord and tenant, small claim procedures, master and servant, etc., which provide a starting point for this campaign.

Law Reform

It is often the case that legislation, once proclaimed, is seldom subjected to a system of checks to test its effectiveness for the purpose for which it was designed. To analyze legislation as to its effectiveness and to suggest suitable changes is a task which can only be adequately undertaken by those who work with that legislation regularly. Attempts have been made during the pilot project phase to record instances where legislation appeared inadequate and those initial efforts along with subsequent ones will become the subject of a brief outlining suggested remedial changes.

Accomplishments of the Pilot Project

In a project of this nature it is often difficult to define adequately in the form of a report those things which have been accomplished. However, the achievements over the summer may generally be divided into two categories. The first is one based primarily on statistical records. Of the 65 cases written up by the workers the areas of law concerned were: domestic relations (family court, divorce), landlord and tenant,

master and servant, insurance, criminal law and torts. Beside these, numerous telephone requests for information were handled, most of which were referred to a specific agency once the facts had been heard and the issue extracted. In a large number of the cases dealt with, the inquirer needed only to have his problem properly defined and that being completed, the solution was readily available. In the majority of cases, the workers were able to provide direct and positive action and results on the problems confronting them.

On the other hand, there are those achievements which cannot be measured or counted, but which are of equal importance. It was found that although legal and other help is in many cases available to the people served by the project they generally fail to make use of it because it is out of their locale and involves strange, seemingly unfriendly, somewhat condescending or patronizing people. By locating the project offices in central locations in the area, the community came to accept the plan as its own and consequently could accept the services offered without hesitation. The residents came to feel that they could ask the questions they had waited so long to ask and the workers had the time to provide the answers and spend a little time explaining the reasons behind the answers. Barriers were made much smaller and the services offered became readily accessible, thus accommodating the residents and providing for them an otherwise inaccessible service.

The Future

There is general agreement among those involved that a community such as Boyle Street has very real needs in the area of accessibility to legal assistance, needs which can to a large degree be met by law students. In fact this need has been found to extend far beyond the boundaries of the selected community into almost all areas of the city, as indicated by the response during the summer from a variety of social strata. To meet those needs plans are presently under way to continue the project on an extended basis employing the services of teams of students during the school term. By having teams, each consisting of one student from first, second and third year law, continuous service can be provided while keeping the load on each individual to a minimum. This too will encourage greater numbers of students to become involved in the project and it is hoped, in the long run, that the Faculty of Law will be encouraged to carefully consider the possibility of including such an activity as part of its curriculum.

Even at this point the opportunities for the educational campaign in the coming year are great. Invitations have been received from a number of groups to present papers on various areas of the law which most closely affect them. In addition to this, the committee has been requested to prepare a monthly article outlining a point of law for a native publication in this province.

The committee is convinced that the benefit to the profession, the students, and society generally all point to the value of the Student Legal Services Project. As far as the profession is concerned, the load of Legal Aid responsibilities could be shared by having students participate by conducting investigations in civil and criminal court proceedings;

interviewing witnesses, preparing legal arguments and briefs and in certain circumstances, by making court appearances of a routine nature. The responsibility of the student worker would not end with his referral of the case to Legal Aid, but with the consent of the appointed lawyer the student would be prepared to do a large amount of the "leg work" of research, etc., for the lawyer, thus removing the burden from a busy professional man and ensuring the case is given the attention it deserves. From the student's point of view, he could gain valuable experience in the administration of justice, but beyond this the main benefit to be gained is through a personal contact with individuals, viewing them and their relationship to the law. This latter benefit adds a certain reality to the study of law by placing the theory into a living, social context. In the opinion of the summer workers the value of this experience for students can hardly be overstated. Should the results obtained in the future continue to be as striking as those obtained in the comparatively short time the project has been functioning the value of its operations to the public are self-evident.

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THE INCOME TAX ACT, R.S.C. 1952, C. 148 AS AMENDED, S. 126, 126A. — SOLICITOR-CLIENT PRIVILEGE — OTHER PROFESSIONAL ADVISORS OF THE TAXPAYER WITHOUT PRIVILEGE. —*MISSIAEN v. M.N.R.*¹

The question of privilege with respect to production of documents on the part of professional advisers of taxpayers, as represented by case of *Missiaen v. M.N.R.* is perhaps timely for two reasons: firstly, because of the apparent increasing use of search and seizure weapons by the Department of National Revenue and secondly, as the clarion call in revenue matters currently appears to be "equity and neutrality" it would not be inappropriate to examine the present law from that view point.

Section 126 of the Income Tax Act² sets out the powers of the Minister of National Revenue and his officials to undertake a search and seizure or to require the production of documents. While this is beyond the scope of the present topic suffice it to say that these are very broad in nature and go considerably beyond parallel provisions in the Criminal Code.³ The Minister may for any purpose related to the enforcement or administration of the Income Tax Act virtually engage in a cross-Canada "fishing expedition" and in so doing "empty the offices of the chartered accountant and of the barristers of all

¹ (1968) 68 D.T.C. 5039.

² R.C.S. 1952, c. 148 as amended.

³ See Canadian Criminal Code, S.C. 1953-54, c. 51, as amended. ss. 429-432.