

Book Review

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Book Review

Lawyers For People Of Moderate Means — Some Problems Of Availability Of Legal Services. By Barlow F. Christensen. American Bar Foundation: 1970. Pp. 313. \$7.50 cloth, \$5.00 paper.

Lawyers is not a study of how or what legal services should be furnished for people of moderate means, as its title may imply. It is instead, as its subtitle indicates, a study in depth of "some problems of availability of legal services." To this reader, the realization of the book's true subject matter created an initial disappointment, for much has been written on the problems of availability but not enough on solutions to these problems. However, disappointment over what *Lawyers* does not do soon gave way to enthusiasm over what it *does* accomplish. The book is not merely another discussion of the legal services problems of the profession; it is a successful attempt to expose many of the shibboleths of the profession in the context of today's needs.¹ In the manner of an understanding and compassionate friend of the court, the author lays bare much of the national legal machine, demonstrates why and where parts are not performing their functions and hints at the need for at least some new parts, and perhaps for an entirely new machine.

1. The book is actually a collection of papers prepared by the author for the American Bar Association's Special Committee studying the availability of legal services. B. CHRISTENSEN, *LAWYERS FOR PEOPLE OF MODERATE MEANS* xiii (1970) [hereinafter cited as *LAWYERS*].

He first discusses the "Cost of Legal Services," enumerating the various factors that may be pricing the lawyer out of range of the moderate income client, and explores various methods of remedying this by increasing the lawyer's efficiency. He then explores in depth the need, as well as the problem, of "Specialization."

The remainder of the study deals with the problems of how the lawyer will reach his market. The author explores, among other things, in a chapter on "Bringing Lawyer and Client Together," the problem of solicitation, advertisement, and ways by which the lawyer can reach and serve the public. Under the headings of "The Lawyer Referral Service," "Special Law Offices for People of Moderate Means" and "Group Legal Services," he discusses existing methods of volume legal service, noting their successes and inadequacies with an indication that more sophisticated and broader based legal organizations may present a part of the answer to the problem of supplying services to the moderate income public.

Utilizing an economic rationale, Christensen theorizes that lawyer's services are a commodity that may not satisfy the demand of the market place, not only because the traditional legal services currently being supplied by the legal community are not those wanted by moderate income America, but also because the needs are not translated into an economic demand. One "problem of the legal profession is not, therefore, to decide for the public what it is that they 'need,' but to try to learn something about the conditions under which there may be some demand for lawyers to do what they are equipped to do."² The bar has long paid at least some attention to one of the necessary elements of translating the needs into economic demand, namely, the assurance of minimum competence and character on which the necessary confidence of the consumer in the product can be based. Perhaps more can be done to improve the confidence factor. And probably more can be done to improve the other two factors necessary to translate need into demand, namely, informing the consumers of the availability of the services and offering them at practical prices. The cost problem and, more recently, the information problem are being met by tradition-breaking methods in the area of low income clients. It is suggested that some tradition-breaking methods are desirable in the area of moderate income clients.

Certain aids in meeting the often prohibitive cost of legal services have been proposed: recovery of attorney's fees as a cost of litigation, legal service insurance proposals, legal service financing programs, and legal service subsidies. The examination of these techniques by Mr. Christensen should improve any future debate over their implementation. For example, the English experience with a legal insurance program should be helpful in considering an American program.

Help in paying for legal services may be possible. But the effort to reduce the cost by greater efficiency should continue; bar associations across the country have for many years been attempting to educate the bar on efficient law office management. Specialization is another method of achieving greater efficiency. The high volume

divorce or workmen's compensation attorney is apt to be able to provide service at a lower cost. But the Bar's rather unrealistic refusal to recognize the nature of legal practice in today's context has added to the inability of the legal community to adequately service moderate income America. If the availability of old services is expanded or if new ones take their place, the Bar should recognize that steps must be taken to make these new approaches known to the public. The obstacle to this is the Bar's traditionally conservative attitude toward solicitation and advertisement. While Christensen does note the dangers of complete freedom in this area, he recognizes correctly that present restrictions may be too inhibiting and may be simply a means of protecting the larger firms at the expense of the smaller firms and remaining general practitioners.

Christensen sounds a note of warning to the Bar. The Bar has been reluctant to accept the concept of Group Legal Services, despite the decisions in the *Button*,³ *BRT*⁴ and *UMW*⁵ cases — all of which concerned the actions of lay intermediaries who were dissatisfied with the services provided by the Bar. The Bar should recognize its responsibilities and take the lead in providing guidelines and initiatives to meet this challenge; or an aroused lay public, suspicious of the Bar's recalcitrance, will continue to take matters into their own hands.

The author, who has studied the problem of availability in depth, has been kind to the Bar throughout his study and maintains this approach in his conclusions. But the message is clear and important and, perhaps because it is not in the form of an attack, may be read objectively by the legal community. There is a great need for legal services by the vast economic middle group of America. What kinds of services are required, and to what extent they are to be made available, may require extensive empirical study. On the other hand, the bar now has much knowledge of itself and of the legal needs of the public and can be expected to continue to progress despite imperfections in its knowledge. Perhaps traditional concepts and services are unable to satisfy the need; while tradition need not be discarded, there must be a willingness to explore new ways and concepts to fulfill modern needs. Like any other economic commodity, legal services must meet demand in a marketable manner. This will be done by a Bar, progressive in thinking, with the public interest as its main consideration; or it will be accomplished by others to the detriment of that public interest, and of the legal profession as well.

*Abraham A. Dash**

3. *NAACP v. Button*, 371 U.S. 415 (1963).

4. *Brotherhood of Railroad Trainmen v. Virginia ex rel. Virginia State Bar*, 377 U.S. 1 (1964).

5. *UMW v. Illinois State Bar Ass'n*, 389 U.S. 217 (1967).

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