

Legal Services and the Organized Bar: A Reminiscence and a Renewed Call for Cooperation

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Taken together, the first annual Arthur Liman Symposium at the Yale Law School and the twenty-ninth reunion of the 1969 Reginald Heber Smith community lawyer fellows affords a welcome opportunity to look back over three decades of interplay between the legal services program and the organized bar.

My own reminiscence: In the summer of 1969, only a year after the convulsive events of 1968, 250 very young lawyers gathered on the bucolic campus of Haverford College in suburban Philadelphia to spend several weeks in training as future "Reggies." Throwing modesty to the wind, a present-day review of that group's credentials demonstrates that the best and the brightest from the most prestigious law schools had been selected to participate. Legal services in its infancy, sheltered in the dynamic and burgeoning Office of Economic Opportunity (OEO), had the luxury back then to fund two-year fellowships for all of these young lawyers. Our mission: to avoid any obligation to engage in day-to-day client intake, and instead to dream up test cases and class actions, launch legislative initiatives, and organize community action programs.

Extra lawyers, law reform efforts, lobbying, and community organizing all sound as quaint as high-buttoned shoes to those of us who gnash our teeth over the current restrictions, both financial and programmatic, that cramp the style of federally funded legal services programs today. But in 1969, because of this fellowship and the entire OEO program, anything seemed possible. Poverty would be defeated within a few years. The inadequate nutrition, slum housing, dismal education, and marginal health of the poor in America would all become historical artifacts, eliminated by the efforts of lawyers with a mission.

We Reggies were eager and bursting with enthusiasm. Fed daily doses of inventive strategies and innovative approaches, we honestly believed that we lawyers could cure the domestic problems in America, though

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none of us could understand how anything we could do would solve the mounting problems in Southeast Asia.

Even if my characterization of the Reggies can be dismissed as distorted by the passage of time, everyone would agree that the best and brightest were training us. Tony Amsterdam, Ed Sparer, and Alvin Rubin were a few of the stars in the law-reform firmament who descended on the Haverford campus to share their insights with our crew.

Sometimes the training became oppressive. Hearing one day that shelter was the greatest problem of the poor, and the next that the great crisis was in food, only to learn on day three that the most pressing need was on the welfare front led to a certain gallows humor that infected the after-class libations. Do you really think that hunger is worse than homelessness, we would ask each other, while relieving the tension with another beer.

Then a surprising attack from the left interrupted the tranquil setting, diligent pursuit of truth, and our self-righteous smugness as crusader rabbits. While this mostly white, mostly male, mostly Ivy League-educated cadre sat each day in the classroom learning of the oppression of the poor, a very small group of African-American lawyers among our number organized to form a Black Caucus. Their demands were clear and quite simple. The program's lawyers should match the color of the client population. If almost half of those who lived in poverty were black and Hispanic, then those were the percentages of black and Hispanic lawyers the Reggie program should include. And instead of meeting on the Main Line of Philadelphia in the shade of the magnificent elm trees that dotted the Haverford campus, the program should be moved to the inner city, so that we Reggies would fully appreciate the problems facing the poor.¹

This initiative shocked the liberal white lawyers. We were committed. We were dedicated. How dare our colleagues attack us when there were so many other forces to rail against? Nonetheless, those who ran the Reggie program met with the Black and Brown Caucus and agreed by the end of our program that the University of Pennsylvania Law School would give up its role as organizer of this training and that the whole program would be moved to Howard University Law School, which would run the following summer's training in the heat of southeast D.C.

After our sojourn in suburban Philadelphia, the Reggies literally were scattered to the four winds, serving in the major cities of America and in rural Appalachia, the central valley of California, and migrant labor

1. It is a minor footnote to history that within days of its formation, the Black Caucus became the Black and Brown Caucus with the addition of two Hispanic lawyers to our group, one of whom was a young man named Jerry Rivera. His claim to fame became not changing the caucus name to Black and Brown, but changing his own name to Geraldo.

camps in Florida. I set off to Community Action for Legal Services (CALs) in New York, the parent organization of a vastly complicated corporate structure that only the local politics and size of a city like New York could produce. CALs's sole role was to act as central administrator and provide law reform backup for its twenty-five to thirty neighborhood offices.

What halcyon days these were! *Goldberg v. Kelly*² had established the right to a hearing before loss of welfare benefits, and from that important precedent legal services lawyers had constructed elaborate procedural safeguards to protect the poor in every government program. Equal protection claims abounded. If a slight difference in treatment among those receiving government benefits was identified, reform-minded lawyers sought access to our favorite haven, the federal courts, in order to transform the discrepancy into a constitutional violation. Community groups were organized around housing, welfare rights, education, and food. Lobbying took place in Albany, Harrisburg, Peoria, and Sacramento as legal services lawyers counseled the poor to exercise their collective political muscle. Funding abounded, the program was new, hope sprung eternal, and daily successes simply reinforced our optimistic views.

We all felt so comfortable and convinced that we were right. Making salaries equivalent to about two-thirds the pay of private lawyers in major New York law firms (can you imagine that ratio between public and private today?), we offered a small financial sacrifice in return for the luxury of racing into court on the side of justice and right.

It's hard to look back on that experience without a certain level of disbelief at what we undertook. Our small agency had as many as twelve or fifteen class actions at one time, each in federal court, each commenced by an Order to Show Cause. Most of the events that triggered our need for a temporary restraining order "occurred" when the emergency judge in the Southern District just happened to be one of our favorites, a judge who not only would sign our headline-grabbing order but also retain the case for all purposes.

But if our legal tactics in retrospect do not fully withstand ethical scrutiny, that problem pales in comparison to my memory of representing an East Harlem-based group of Puerto Rican youths called the Young Lords, whose leader could have been no more than twenty. The group was Jerry Rivera's client. To dramatize their cause, the Young Lords took over a church. The siege lasted days. We CALs lawyers literally spent that time inside the sanctuary round the clock, counseling our clients, negotiating with police, and learning how to protect ourselves from

2. 397 U.S. 254 (1970).

the effects of the tear gas that we knew inevitably would precede the church's recapture if our negotiations failed. I remember walking from the subway station to this site at 4 a.m. on a bitter cold January morning and knocking at the church door to be granted leave to enter by a head-band-wearing Young Lord in a military uniform. The memory is such a contrast to my current cloistered corporate practice at my 150 year-old law firm that I find it hard to believe I was ever that person.

While we might have been engaged in what we thought were radical representations, our director, John Gregory, did everything in his power to make us look and act the part of establishment lawyers. Pleas that we should wear work shirts and jeans, thereby somehow identifying with our clients, fell on deaf ears. John insisted that we wear dress shirts, ties, and conservative suits so that the judges could not distinguish us from the lawyers for the rich. The poor were entitled to lawyers who looked exactly as if they worked at Cravath, Swain & Moore, he observed. (Looking back at photographs from that time, however, I see that the combination of far too much hair and our then-fashionable extra-wide day-glo ties did not in fact lend us an establishment appearance). John Gregory also taught us to address judges in the proper fashion. The salutations of our letters were to begin, as archaic as it seemed even then, "My dear Judge Bonsal."

As a lawyer for CALS, I remember being extremely unfair to at least two groups of lawyers. First, there were those who represented the city and the state, our favorite defendants. I treated them not as lawyers conscientiously representing the other side, but rather as the living embodiment of the forces of evil. My self-righteous attitude prevented me from dealing with these lawyers as colleagues at the bar.

Then there were the law school contemporaries who had "sold out" by going into private practice. Many of us could not understand how they could be so misguided. One would have hoped that if the same do-gooder mentality that led many of us to legal services infected the private firms as well, and as a result they offered to help us in our endeavors, these offers would have been greeted with enthusiasm. But I am ashamed to say that was not the case. Already suspicious of them for eschewing full-time public service, we were not going to let these private lawyers salve their guilt with dilettante participation in our headline-grabbing cases. Besides, what did these green-goods lawyers who negotiated the legal terrain of corporate America know about pre-termination hearings, eligibility requirements, food stamps, and Workable Programs?

In fairness to us, the private lawyers fueled our fire. Many would offer to volunteer, and then fail to show up. Others would offer assistance, and then claim that the press of paying work precluded their participation.

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That was all we in legal services needed to confirm our suspicions that our classmates in the great Wall Street law firms were not a genuine source of assistance.

Our attitude toward the organized bar was equally unflattering. The American Bar Association was certainly not an organization Reggies or other legal services lawyers joined. If any organization were going to be our professional home, it would be—despite its flirtations with the Communist Party—the National Lawyers Guild. The ABA was too white, too old, too conservative and certainly not the kind of association a legal services lawyer would support. In many places, the organized bar had opposed the establishment of free legal services for the poor on the grounds that it would take money out of the pockets of for-profit lawyers. The fact that in some cities—notably my own Philadelphia—leadership for founding legal services agencies had come from the local bar association could not overcome our general impression that the private bar and its organizations were worthy of no more than benign neglect.

Three years and many cases later, it was I who sold out. I don't know whether I simply rationalized that I was burned out. I don't know whether I always knew I would cross the great divide. I do know that I had faced my tenth case over a lost welfare check, and that this time I could not come close to the ferocious advocacy I had achieved when my first client sat across from me and told her tale of an empty mail box and no money for rent.

Looking back at the history of the social work programs that had developed in the Great Depression, my CALS colleague, Richard Seid, had written that legal services lawyers should serve no more than five years. When they began, social workers were viewed as the servants of the poor, Dick argued, and infectious enthusiasm and great optimism were everywhere. But when we practiced welfare law in 1969, the social workers were part of the problem. To us they were mindless bureaucrats, working from 9 to 5 with no fervor and no commitment. Dick thought the five-year rule would ensure that nothing similar befell us. So I had Dick's rationalization to support my decision.

Not long after my departure for Philadelphia, Drinker Biddle & Reath, and the precious existence of a private lawyer, Richard Nixon mounted the first real challenge to legal services. No one was surprised when this happened. The program was designed to represent the poor. Almost all of the poor's legal rights arise out of their contacts with the government. If the poor were to be represented effectively, such representation would require attacks on the same government that paid for legal services. We knew it was only a matter of time before someone in government asked: Aren't we crazy to be funding those who attack us?

Though I had left legal services, to salve my guilt I continued to follow its fortunes with great interest. And who came to do battle over whether legal services would survive? To my surprise, the ABA led the charge, as only the establishment bar could, in arguing that legal services should be left intact and that an independent corporation be established to administer it. Suddenly an organization I would not consider joining as a legal services lawyer, and now only belonged to because my firm paid my membership, was playing a heroic role. If the ABA could so effectively help save legal services, then it was up to me to become involved in the ABA. And so I did.

Fast forward to late 1994. It is the Fall and the seeming cataclysmic November elections have produced a Republican majority committed to the Contract with America, which includes the elimination of federal funding for legal services for the poor—the end of the Legal Services Corporation (LSC). The hope for new growth for LSC spurred by Clinton's 1992 election has disappeared in an anti-tax-increase backlash. Yet the horror my fellow liberals felt about these developments was significantly tempered for me by one crucial event. November 8, 1994 is also the day that my brother Jon, a Republican from Pennsylvania, won a narrow victory over Democrat Marjorie Margolies Mezvinsky, the incumbent Congresswoman who had defeated Jon in 1992 and then cast the decisive vote for the Clinton tax increase.

Still, despite my brother and a few other moderate Republicans, the new conservative majority pretty much had their way with legal services in 1995. The program was not eliminated. But the Republicans put legal services on a glide path to zero funding, reducing spending from \$400 million in 1994 to \$300 million in 1995. Plans for further cuts over the next two years were all that would be required to finish the dastardly deed. Equally devastating, vast new restrictions detailed elsewhere in this collection were placed on what LSC-funded programs could do not only with federal funds, but with money they raised independently.³

These developments coincided with my becoming Chair-Elect of the ABA's Litigation Section—the Association's largest section, with over 60,000 members. The Section threw itself into the legislative fray, seeking approval from the ABA House of Delegates to oppose a wide range of misguided legislation that would interfere with the adversary process. With so many battles to wage, our leaders became immersed in the legislative process, from attending committee mark-up sessions to button-

3. See Pub. L. No. 104-134 § 504(a) (1996). For a more detailed description of the restrictions, see Alan W. Houseman, *Civil Legal Assistance for the Twenty-First Century: Achieving Equal Justice for All*, *infra* at 369; David S. Udell, *The Legal Services Restrictions: Lawyers in Florida, New York, Virginia, and Oregon Describe the Costs*, *infra* at 337.

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holing legislators as we raced stride for stride with them down wide marble hallways.

The next year, when I served as Chair, we consolidated our forces and organized the opposition to further cuts to LSC. For me a delightful aspect of this endeavor was that my freshman Republican brother announced that he would come to our aid, despite enormous pressure from Republican House leaders that included visits to his office by the powers-that-be on the day of the critical vote. LSC had come out of the congressional appropriations committee earmarked for only \$150 million. The vote on the floor would be an amendment to maintain funding at about \$300 million.

Through the extraordinary efforts of Mauricio Vivero and Robert Evans, ABA and state and local bar leaders were organized down to the very last member. As pressure mounted before the vote, Jon literally spun me around the halls to visit a few wavering representatives. I sat in the gallery with a couple of White House officials as the debate began, surprised that so few were watching what seemed to be a watershed event. The speeches were eloquent, with Jon and Representatives Allen Mulholland and Jim Ramstead leading the way. LSC's detractors trotted out the old anecdotes and horror stories that had become the opponents' litany. Then the House moved to the electronic vote. My pulse quickened. Slowly we drew into the lead, but nowhere near the 218 votes we needed for a majority. Then, finally, we went over the top, and an avalanche followed as many who had held back to see which way the vote would go decided to pile on. For me, there could not be a prouder moment. LSC had been saved, with my Congressman brother in the lead and the ABA doing what it does best to support this valuable program.

My position as Litigation Section Chair gave me other chances to help legal services. Every chair gets one pet project, and mine was to bring 100 legal services lawyers to Miami to attend our Section's annual meeting. We included legal services lawyers in our planning from the start so that at any time of day there would be a substantive program that appealed to our colleagues from the poverty wars. Then we broadcast our offer to the legal services community: each legal services lawyer selected would receive airfare, registration, hotel, and tickets to all social events during the three-day meeting. Unfortunately, we did not raise enough money to cover my dream 100, but sixty-five did attend, all expenses paid. And what a difference it made. These legal services lawyers were present in enough force to change the tone of the meeting for the better. Most important, the morning after our blow-out dinner-dance, the legal services lawyers joined almost thirty private practitioners in a crowded, windowless conference room for an hours-long strategy session about long-term

collaboration between the private and public bars. Out of this brainstorming grew the Section of Litigation Legal Services Project, which brings six or seven legal services advocates to each of our Section leadership meetings to work with us in developing strategies that I will discuss below.

In the end, however, bringing the sixty-five legal services lawyers to Miami had only a slight lasting effect. Instead of leading more public service lawyers to participate as active ABA members, it proved to be a single burst of energy that dissipated when each lawyer returned to his or her home office. Still, it was an interesting initiative that I think no one regrets.

What does all this mean for today? Even as the challenges and impediments facing legal services programs have never been greater, the opportunities for working constructively and effectively with the private bar also are at an all-time high. Indeed, I like to think that if we came together, we could recapture some of the reform spirit that infected the Reggie program back in 1969. But as the following discussion demonstrates, moving in that direction will take hard work and a shift from business as usual. The following is an outline for areas in need of change.

1. Lobbying

The ability of the ABA and state and local bar associations to galvanize support for legal services in Congress is the best example of the effects of cooperation. The subject is a great one for the organized bar. With foils like abortion rights and needle exchange programs, the ABA House of Delegates easily views access to justice as a bread-and-butter issue that goes to the core of policies the ABA should support. While a few may dissent, the chorus of supporters for legal services drowns them out. As a result, the President of the ABA and the Chair of its Standing Committee on Legal Aid and Indigent Defendants regularly testify in support of legal services. And the ABA's ability to organize on a national level, dedicate a full-time staff person to the endeavor, target key legislators and reward LSC supporters with financial contributions from individual members, and offer institutional recognition has built the foundation for the long-term lobbying campaign that undoubtedly will be required. For the past four years there has been a battle for survival on the floor of the House and there is no reason to expect it will not be repeated in the foreseeable future.

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ABA support does not mean that Legal Services lawyers, who because of restrictions must rely on surrogates to lobby for them, can remain either complacent or on the sidelines. While it may be illegal to lobby directly, undertaking effective educational campaigns is crucial. For most lawyers, even its biggest supporters, legal services is an abstraction. That abstraction has to be translated into real clients, real cases, and a real understanding of what lawyering for the poor involves. How many non-legal services lawyers understand the implications of welfare reform, or of the new legislation restricting government assistance to legal aliens? How many appreciate the triage decisions legal services programs and lawyers are forced to make every day? With this understanding, the private bar's support would be even more energetic and persuasive. To this end, at the Litigation Section we are organizing a plenary program on the subject of legal services. We will bring in staff lawyers, clients, program directors, and LSC staff to give a nuts-and-bolts presentation. That model must be replicated in other ABA Sections and state and local bar associations.

Aside from maintaining funding, lobbying by the organized bar should be directed at lifting the oppressive restrictions. I suspect that attacking the limitations on the kinds of cases that can be brought using federal dollars will not be fruitful. Until the political landscape changes dramatically, the fragile coalition that produces 250 or so votes in the House is put together in significant measure among those who support their continuation. Though it offends our ethical concepts of reasonable-scope limitations to have the legal services offered to the poor circumscribed in these ways, and though the restrictions introduce ironic inefficiencies, the real politick is that they are not going away.

However, the limitations on activities financed by non-federal money could be a fertile ground for effective advocacy. Congress continuously challenges the need for LSC by asking why the private bar does not address and solve the legal needs of the poor; then that same Congress creates a system in which private lawyers have no incentive to direct either their money or their pro bono efforts to a federal program in which both will be used ineffectively. That argument should, in the long run, carry the day. Does it make any sense for Drinker Biddle & Reath to contribute to an LSC-funded program when its dollars cannot either support real law reform or address whole areas of concern to poor people?⁴ The same money can go to other agencies that labor similarly without the restrictions. By the same token, why should Drinker Biddle & Reath law-

4. I refer here to the restriction that bars legal services programs that accept LSC funds from initiating or participating in class action lawsuits, or taking certain kinds of cases, such as systemic challenges to welfare reform. See Pub. L. No. 104-134 § 504(a) (1996).

yers volunteer to take federally funded legal services cases when the impact of those precious pro bono hours may be compromised by the need to observe a set of vastly complicated and confining regulations?

The fact that the restrictions on non-federal money in federally funded programs had also led, in cities like Philadelphia, to two legal services agencies only emphasizes the need for a major lobbying initiative.⁵ The cynics, of course, will argue—perhaps correctly—that these inefficiencies and dislocations are precisely the result Congress hoped to achieve. But we must remain optimistic, and we must set realistic goals. Rescinding the restrictions on activities paid for by non-federal funds, I think, is achievable.

2. *Fund Raising*

The second-most important area of legal services-private bar cooperation will certainly continue to be fundraising and other financial support. The ABA has already demonstrated leadership in this area. The Association developed and published a series of guides, entitled “Innovative Fund Raising Ideas for Legal Services,” which contain a splendid collection of fundraising strategies. The annual ABA Bar Leadership Forum, which brings together bar presidents, presidents-elect, and bar executive directors, always features support for legal services programs, both legislatively and financially. The ABA Pro Bono Conference, to be held this year in conjunction with the National Legal Aid and Defender Association, targets firm pro bono managers and public service law providers. The Center for Pro Bono, in place at the ABA since 1980, maintains an extensive information clearinghouse for fundraising and other support for public service. The ABA Standing Committee on Legal Aid and Indigent Defendants (SCLAID) and the Standing Committee on Pro Bono and Public Service also play leadership roles in this area. It remains critical that the bar and legal services programs continue to meet at these intersections. Just by way of example, the development of guidelines for what constitutes an effective legal services program, developed by SCLAID and endorsed by the ABA House of Delegates, was a landmark accomplishment that reflects the highest level of collaboration.

Two other recent efforts offer models for the search for new initiatives. Both grew out of the Litigation Section’s Legal Services Project.

5. Community Legal Services, Inc. no longer accepts federal money because of the LSC restrictions and instead is funded by money from our state legislature, foundations, and private contributions from the bar. Philadelphia Legal Assistance provides direct legal services to the poor with LSC funds. See Catherine C. Carr and Alison E. Hirschel, *The Transformation of Community Legal Services, Inc. of Philadelphia: One Program’s Experience Since the Federal Restrictions*, *infra* at 319.

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Recognizing the private bar's role in fundraising and the fact that no one gives money until she is asked, the Litigation Section sponsored a two-day seminar in Philadelphia that brought together ten legal services project directors and fundraising coordinators with bar leaders from the same cities. Since each program selected already had a program in place, the purpose of this event, which was led by experienced fundraising professionals, was to help these programs achieve a higher level of funding. The Litigation Section sponsored the attendance of the legal services program officials; the bar leaders traveled on their own ticket; and no legal services programs could participate without recruiting a bar leader to attend. The effort was so well received that the identical format will be duplicated this year, though this time the seminar will be addressed to programs with no fund-raising program yet in place.

The second project came out of the explosion in modern technology. The combination of law firms buying new computer equipment at an ever-increasing pace and the need of legal services programs to stay as up-to-date as possible produced a computer exchange program. Leaders of the Litigation Section, many from large firms, promised that they would first offer their discarded equipment to legal services programs. The hope is that the computers will be made available to local programs in each firm's region. But if the local supply exceeds demand, the computers will be posted on the Internet for rural programs that do not have large firms nearby. The computer exchange idea has already expanded in the ABA to be adopted by the Standing Committee on Legal Aid and Indigent Defendants and the Business Law Section, which became co-sponsors.

3. *Litigation Assistance Partnership Project (LAPP)*

Under the leadership of Michael Tigar in 1989, the Litigation Section of the ABA launched this important program. Its purpose was to match legal services programs that needed help with major cases with private lawyers, particularly law firms, seeking pro bono work. The program has a staff member and advertises regularly in publications likely to reach programs in need for assistance. Funding comes from the Section and other support and an office comes from the National Legal Aid and Defender Association.

This program has had some success. It has matched more than 200 cases in the last nine years in a wide range of subject areas. And since the implementation of the congressional restrictions on the types of cases federally funded programs may take, participating firms haven't taken a few referrals on their own rather than follow the typical model of partnering with legal services agencies.

Typical of the original model is *Velez v. Cisneros*,⁶ a case taken by Drinker Biddle & Reath in cooperation with Delaware County Legal Assistance (DCLA). This class action was brought on behalf of the tenants in five projects operated by the Chester Housing Authority. The Department of Housing and Urban Development (HUD) took over the tenants' units after the case was filed and before our firm was enlisted. When HUD itself could not improve conditions, DCLA sought help to press its claim that control of the Authority should be wrested from HUD and the entire operation placed into receivership. After a lengthy trial, that end was achieved. Today a court-appointed private receiver operates almost 1000 units of newly rehabilitated housing. This success was the product of effective cooperation between a legal services office that understood the intricacies of elaborately complex federal housing programs and a law firm capable of handling massive document discovery and legal briefing.

However, LAPP lacks customers. There are more volunteer lawyers waiting for cases than there are opportunities to serve, a curious result given the documented unmet legal needs of the poor. This gap reflects a real problem. It may be that the volunteers do not come without baggage. They are largely big-firm lawyers who represent the establishment and therefore perhaps are viewed as untrustworthy. They also know nothing about poverty law, and may assume it is not high-powered and beneath their capabilities. On the other side, the legal services lawyers, like me when I was a Reggie, don't want to share the juicy cases with dillitantes. The fancy law firm lawyers can do intake for a few days in our housing section, but they shouldn't be entitled to seize the whipped cream when they have not even bothered with the cake, the thinking goes.

Some firms have shown how this distrust can be overcome. Several have established their own offices in neighborhoods to provide legal services to the poor. Others have loaned lawyers for six months or one year to work full-time in a legal services office. Here in Philadelphia, the bar developed the Philadelphia Fellowship, which helps law firms pay lawyers who would otherwise be first-year associates one-half of their starting salary to work in a public service setting for one year. These lawyers receive the second half of their pay when they come to work at the firm. Perhaps a dozen lawyers have been placed in this way.

Still, LAPP should be more successful. Demand for co-representation should vastly exceed the supply of private bar volunteers. This is an area

6. 850 F. Supp. 1257 (E.D. Pa. 1994).

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where serious work must be done to find ways to bridge the gap between legal services lawyers and the private bar.

4. *The Organized Bar*

The solution to the LAPP problem begins with getting legal services lawyers more involved with the organized bar, particularly at the ABA level. My Legal Services Project at the Litigation Section attempted this, but proved to have no legs. For this there is plenty of blame to go around. The ABA wants to speak for the entire profession. We need an ABA, or some other organization, that reflects the views of the bar as a whole. But the public interest bar is underrepresented in the ABA's membership and leadership. These lawyers by and large belong to the National Legal Aid and Defender Association rather than to the ABA. One reason, of course, is money. ABA dues are high and legal services agencies do not pay them. The cost of active participation is even higher. Travel to distant cities, hotel and meal expenses, and additional time away from work make participation in a national organization problematic. Yet like increasing the number of government lawyers, active participation in the ABA by more legal services lawyers would be a major accomplishment and would enrich the organization beyond measure.

The blame for lack of participation, however, does not lie entirely with the ABA. Along with the Litigation Section effort I spearheaded have been other overtures by ABA leaders. The public service bar has met them with a striking lack of enthusiasm, perhaps even with mistrust. The us/them attitude of legal services lawyers probably has its galvanizing effect. Fighting establishment America on behalf of the indigent undoubtedly leads to a distrust of lawyers who represent the establishment. It is easier, undoubtedly, to act self-righteous if you don't consort with the enemy. But none of that is healthy or helpful. Legal services lawyers need to be more introspective. They must meet us part way, if not half way, by becoming involved with the organized bar.

