The American Bar Foundation's Research Program for 1967

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ONE OF THE MAJOR studies by the American Bar Foundation, The Common Market and Common Law, by John Temple Lang, has just been published. Another, Detection of Crime, by Tiffany, McIntyre, and Rotenberg, the third volume in the Administration of Criminal Justice Series, is about to appear in print. The present, therefore, seems an appropriate time to report on the projects now in progress at the Foundation.

The major objective of the American Bar Foundation is to add to existing knowledge and understanding of legal processes through research. The achievement of this objective takes the form of published materials that will encourage the legal system to keep pace with the contemporary scene and, less tangibly, the stimulation of thought and activity about legal problems. Both our resident research staff members and legal researchers working on extramural projects are involved in studies that promote this objective. The number and variety of the Foundation's intramural and extramural research projects are too large to recount in full in the present space. It may be of interest, however, to describe some of the principal intramural research now going on at the Foundation.

F. B. MacKinnon is engaged in a survey and study of published research projects relating to the legal profession. (He is the author of Contingent Fees for Legal Services, published in 1964.) His present study has included an inventory of statistical studies of legal institutions, processes and personnel that have been carried on since 1947. He is also surveying sociological and economic studies of the legal profession. The purpose of this inventory is to determine what kinds of large-scale research have been undertaken by the legal profession, the methods used to approach these projects and the problems and product of these efforts.

A study of this nature is particularly useful to the Foundation in its own research endeavors. The more we know about past legal research and the difficulties encountered in doing it, the better able we are to improve our own research capability. In an important sense, research consists of making mistakes. Efficiency in research consists in reducing the number of times mistakes are repeated. An evaluation of past successes, and particularly past failures, is our best form of self-education.

Donald M. McIntyre, Jr., has been involved in framing a proposal for study of the activities of prosecuting officials: state and federal prosecutors, state attorneys general and city attorneys. The importance of the prosecutor's office in the administration of criminal justice is emphasized by the attention given it by the President's Commission on Law Enforcement and Administration of Justice. The commission has done much valuable analytic work and has recommended that significant efforts be made to strengthen the role of prosecutors' offices.

Mr. McIntyre has reviewed all available material on the subject, and he has also drawn upon his own extensive background, evidenced in his work on Detection of Crime and his position as editor of the seven-volume mimeographed narrative account of the pilot phase of the criminal justice study. His projected study aims to analyze the prosecutor's office in a frame of reference that includes the whole criminal justice system, posing the general question whether the present system of prosecution is well adapted to meet the varied demands placed on it. His research will also be addressed to several specific topics, including the prosecutor's discretion, the administrative problems of the office and the career opportunities of the officials and their staffs.

Mr. McIntyre is also the co-editor of The Mentally Disabled and the Law, published in 1961.

Under a grant from the American Bar Endowment, Barlow F. Christiansen is working on a supportive project for the American Bar Association Special Committee on Availability of Legal Services. This Special Committee owes its existence to the interest generated in the subject by such recent developments as the decision in National Association for the Advancement of Colored People v. Button, 371 U.S. 415 (1963), the progress report by the California State Bar's Commit-
tee on Group Legal Services and the legal services program of the Office of Economic Opportunity.

Mr. Christensen has set for himself the task of formulating the problems involved in making legal services available to persons of moderate means. His research product is supplied to the Special Committee as background material and ultimately will be published as an independent research study. His research deals with various aspects of the relationship of the lawyer and the middle class, the services that have been defined as belonging properly to the legal profession and the potential needs of the public for services lawyers provide. Particular subjects of inquiry include specialization in legal services as it might affect the problem of providing lawyers' services to persons of modest means; advertising and solicitation, including both individual and institutional advertising; lawyers' fees and an exploration of the possibility of enhancing the availability of legal services by increasing lawyers' efficiency; and an analysis of group legal services.

Mr. Christensen published an article in the January, 1965, UCLA Law Review, "Lawyer Referral Service: An Alternative to Lay-Group Legal Services?"

William T. Braithwaite is Director of the Project on Judicial Removal, Discipline and Compulsory Retirement. This project originated in a resolution of the American Bar Association Standing Committee on Judicial Selection, Tenure and Compensation that was adopted by the House of Delegates at the Annual Meeting in August, 1965. Work was begun on the project in April of 1966.

The study encompasses the state and federal court systems and is designed to analyze the problems relating to aged or ill judges, and judges who, for other reasons, are disabled from carrying out the duties of their office. The project is addressed to two general issues: determining the extent of the problem of the disabled judge and attempting to evaluate the traditional and modern alternative measures that have been adopted to deal with the problem. Mr. Braithwaite's preliminary analysis is now completed and the field research is being planned. Hans Zeisel, professor of law and sociology at the University of Chicago, is acting as project consultant in developing and refining the study plan.

Mr. Braithwaite has written "Fair Trial—Free Press", the American Bar Foundation Research Memorandum that has found a wide audience among the profession.

As part of the current examination of the Canons of Professional Ethics, Olavi Maru, Reference Librarian of the Cromwell Library, is compiling and editing a digest of ethics opinions issued by the professional ethics committees of state and local bar associations. His work complements the present study of professional ethics undertaken in co-operation with the American Bar Association Committee on Evaluation of Ethical Standards. In addition, Mr. Maru has collaborated with James E. Remmert, former Assistant Director of Committee Services for the Association, in bringing the 1957 edition of Opinions of the Committee on Professional Ethics up to date. A revised edition will be available in late spring, under the joint auspices of the Foundation and the Association's Committee on Professional Ethics.

The Cromwell Library, in addition to housing a unique collection of legal learning, is an important research service organization. Carroll Moreland, Cromwell Librarian, has surveyed law libraries and consulted with various bar committees to advise them on development of their collections and the efficient use of their space and facilities. The library is also attempting to complete its holdings of state and local bar association publications and, in particular, bar association periodicals. Many of these are out of print or unavailable and are being obtained in microfilm.

In collaboration with the American Association of Law Librarians, the library staff is exploring improvement of present processes for indexing legal periodicals. The staff is also engaging in preliminary conversations aimed at improving and speeding the cataloguing of law books for the benefit of all law libraries—public, academic and private.

The Foundation continues to enjoy and, we hope, merit the support of the American Bar Association, the American Bar Endowment and the Fellows of the American Bar Foundation. Their help and encouragement has made possible the Foundation's research and service program, a part of which has been sketched here. More complete information about the Foundation's research work appears in its annual reports. The most recent Annual Report, for the year 1965-1966, has just been published and is available on request.