

NO HAPPY RETURNS

We are 10 years old this month, but it is not an occasion for self-congratulation. Our main concern has been to obtain improvements in legal services for ordinary people and to ensure equal access to the law. There are few improvements to report.

True, law centres have increased from 1 to 40; an enormous percentage increase, but a drop in the ocean when measured against need. Legal aid now covers a larger proportion of the population than in 1970 — but the failure to maintain the level of eligibility limits against inflation in 1980 (and possibly again in 1981) means that we are falling rapidly back to the 1970 level.

There is also a much greater interest and activity in what is broadly, and rather inaccurately, called “welfare law”, so that the Law Society now recognises it as one of the areas into what they consider an “overmanned” profession might expand. Even the Royal Commission on Legal Services recognised dimly that in those areas of law which affect the poorer part of the population “legal services are seriously inadequate”. Yet the legal profession is still overwhelmingly concerned with servicing the needs of the propertied and it is only fears of “overmanning” in a depression that has led the Law Society to regard the poorer sections of the community as potential clients. The legal aid scheme operates virtually as in 1950. It does not cover vast areas of the law which are of vital concern to working class people such as social security, employment, immigration, rent control and mental patients. The Government is only now beginning to question for the first time whether the best way to provide publicly funded legal services is to pay solicitors on a case-by-case basis through a scheme run by their own professional body.

In any event is it enough to scrutinise the supply of legal services and the nuts and bolts of the legal system? These issues are important of course, but should they exclude consideration of the substantive law to which they only provide the access? As Martin Partington writes in this issue, the “welfare lawyers” who concentrate solely on improving the administration of the law rather than the policy behind it become the ‘policemen of the welfare state in that all they will be able to do is break the bad news to the poor that their legal entitlement has been cut back.”

How does this affect us? Campaigning groups like LAG must decide how best to achieve their aims. Should the emphasis be on quiet work with the administrators and politicians in the corridors of power — sitting on committees and writing papers — in the hope that our ideas will eventually percolate through and produce change? Or should we encourage open debate and publicly expose the defects and injustices of the legal system, which could lead to exclusion from their charmed circle?

In his article in this issue Cyril Glasser notes a change of attitude in LAG. In our early years we concentrated on gaining the confidence of administrators. One LAG committee member joined the Legal Aid Advisory Committee, another the Lord Chancellor’s Office and Cyril himself became a special consultant on legal aid. Yet, as he points out, the results have been small. Little “material change” was accomplished: for example, savings made by withdrawing legal aid from undefended divorces were not, as intended, used to set up more law centres. Instead we had the Royal Commission on Legal Services.

As long as legal services are regarded as a specialised area for lawyers they will continue to be one of the most underdeveloped of our social services. Worthwhile or fundamental changes will only be achieved when they are widely demanded by informed public opinion. The Royal Commission is a case in point: the short public campaign, concerned in large measure with the conveyancing monopoly, was easily diverted by the setting up of the Commission, which effectively stifled public debate and hope for change for more than three years. The Commission was, on the whole, able to express bland support for existing organisations and vested interests and when its Report was published, such individually worthy recommendations as it contained could, given the existing political and economic climate, be safely shelved.

That is why, as Cyril Glasser also notes, we have widened the area we cover and changed our style. That is why we concern ourselves with issues such as police powers, public order, habeas corpus and cuts in the social security system. That is why we are working through the *Bulletin* and the mass media to create and maintain that body of informed public opinion essential to effective pressure for change.

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