



Ben Spencer, a law student and member of LAG's board, discusses one of the first examples of the provision of free legal advice, ie, the Poor Man's Lawyer service, and considers the impact of the service on the development of legal aid. This is the second article in a new series to mark the anniversary of the Legal Aid and Advice Act (LAAA) 1949.

The Poor Man's Lawyer service: a precursor to legal aid

In 1891 a young barrister called Frank Tillyard began offering free legal advice at weekly Poor Man's Lawyer 'meetings' at Mansfield House, a community centre in West Ham in the East End of London.¹ Frank Tillyard was not the first lawyer to provide pro bono advice services, but he was one of the earliest to do so in England on a formal basis. His solitary charitable act has proved, in the words of Lord Bingham, 'enormously influential' in the history of the development of legal aid.² Mansfield House was a 'university settlement'. It was founded in 1889 and was one of a handful of secular missions that were gaining footholds rapidly in the most deprived areas of England.

University settlement houses

The settlement movement developed from a social experiment conceived by Reverend Samuel Barnett, a clergyman serving the impoverished parish of St Jude's in Whitechapel, east London. In the 1880s, Reverend Barnett formulated a radical proposal to bridge the gap – practically and ideologically – between the rich and poor and the givers and receivers of charity, by building a boarding house for privileged university graduates in one of the most deprived parts of London.

The first settlement house was Toynbee Hall.³ It opened in 1884 on Commercial Street near Aldgate, east London and was modelled on an Oxford University college, with 'sets' of rooms for the students, as

well as a library and function rooms. Toynbee Hall was described incisively in a recent study of the settlement movement as being a Victorian near equivalent to working for Voluntary Service Overseas.⁴ Reverend Barnett's prospectus was to cross-cultivate the class divide by creating a community where people who were cultured and learned would provide hands-on educational and social services to the poor in a spirit of practical neighbourliness. The settlement movement spread rapidly and widely: by 1900, there were 36 settlements in Britain and more than 100 in the United States. Everywhere, settlement houses attracted a broad variety of activists, some of whom would go on to campaign for and initiate the social reforms of the 20th century; the 'fathers' of the welfare state, William Beveridge and Clement Attlee, both trained lawyers, spent time at Toynbee Hall.

The growth of the service

The legal advice service that Frank Tillyard began at Mansfield House was immediately overwhelmingly popular and other volunteer lawyers were recruited to cope with the demand. By 1898, Toynbee Hall had opened its own Poor Man's Lawyer service, which formed an integral part of the settlement movement's prospectus. By the turn of the century, the Poor Man's Lawyer was a firmly-established, charitable service, and it was 'common practice for county court judges

and police court magistrates to send poor persons to Poor Man's Lawyer meetings for legal advice'.⁵

Mansfield House remained one of the most successful and well organised Poor Man's Lawyer services for decades. An ardent campaigner for statutory legal aid provision in the 1920s, Frederick CG Gurney-Champion provides an illuminating picture of the work at Mansfield House at that time where 'numerous lawyers' sat regularly in offices around a waiting room that could seat 100 people or more:

... tickets are given to the poor as they come in, showing the order in which each person is to have advice. And the poor arrive for these tickets some time before the lawyer arrives. Sometimes so many poor require advice that they are told no more can have tickets for that night ... The lawyers giving gratuitous advice do their best to advise everyone. And the work, under great difficulties, is most valuable to the poor.⁶

By 1939, there were 55 Poor Man's Lawyer meetings operating in London and 70 in the major towns of England and Wales.⁷ In addition, by this time the Poor Man's Lawyer service was not associated solely with the settlements, but had become a recognisable brand for the free provision of legal advice (and, in rare instances, legal representation) by a wide variety of organisations, including trade unions and, informally, local branches of the major political parties. The settlements had diversified and other charitable

ventures had been formed that offered a Poor Man's Lawyer service; the most important of these was the Bentham committee, which reportedly advised more than 20,000 applicants in London in 1935 alone.⁸

The range of advice sought from the Poor Man's Lawyer was wide: 'wages claims, affiliation, disputes between neighbours ending in assaults or slander or intimidation, guardianship of children, disputes about very small wills, or the division of small estates on death, money-lenders' claims, debts ...', but by far the most common subjects for inquiry related to matters between landlord and tenant, accident cases involving workers' compensation and matrimonial cases, maintenance and separation.⁹

Although at Mansfield House there were numerous secretaries, including a shorthand clerk to take and copy letters, this was unusual; the majority of Poor Man's Lawyer services operated without clerical assistance or a law library. Free advice was in such demand that even in the best organised meetings, each applicant would be allocated only ten minutes to explain and receive advice. The result was that the most basic legal action, such as writing a letter, was difficult except in the most important cases, and any further form of representation was virtually impossible. Without any national organisation, the Poor Man's Lawyer service depended on individual volunteer lawyers who, in the words of Frederick CG Gurney-Champion, were 'tired men who have had a hard day's work'. The volunteers would often have to travel long distances at night to attend the meeting, and though initially fired by 'inspired enthusiasm' were subject to disillusionment and to retreat from charitable service. The snobbery of the legal profession also acted to dissuade some lawyers from social work: 'if it were known he were a Poor Man's Lawyer, he would lose caste or professional standing'.¹⁰

While the Poor Man's Lawyer service popularised the notion of access to justice among an otherwise excluded class, the haphazard and inadequate legal assistance that it afforded created a window of opportunity for speculative lawyers offering their services in return for costs, if any, awarded against the other party: the 'ambulance-chaser' was born.¹¹ The term 'legal aid society' was a euphemism for this sort of legal practice, and the term 'legal aid' was initially one of ill repute.¹²

The ghoulish methods of solicitors'

touts waiting at hospital doorways pressing offers of legal assistance to the injured and their relatives caused scandalised complaints to the editor of the *Times* bemoaning the lack of regulation of such legal aid.¹³ Nevertheless, it is obvious that the service reflected a real market demand; as a 'poor man's lawyer' wrote in response to the complaints published in the *Times*, until such a time as better provision was made by the state, the speculative solicitors 'are necessary evils, for unless some solicitors took up speculative actions, poor people would never have any legal redress'.¹⁴

Early calls for publicly-funded legal services

In 1902 the settlement movement, at its annual conference, attempted to address the problem of inadequate funding with a proposal for state provision of a public fund for legal aid that could be drawn on by any deserving applicant who had proved the merits of his/her case before a public committee.¹⁵ A mere decade later, in 1913, the Bar Council began lobbying for a state fund that would be available to applicants in financial need with a case with merits. Crucially, the provision of such a regulated fund was not included in the ill-conceived Poor Persons' Procedure of 1914, which aimed to formalise free legal assistance but manifestly failed to do so precisely because the applicant was expected to pay numerous disbursements up front.

Conclusion

The precise significance of the Poor Man's Lawyer service in the development of the legal aid system is hard to gauge, not least because it was not a cohesive, structured organisation with defined aims. What seems to be indisputable is that before the settlements' incorporation of the Poor Man's Lawyer service, there is little evidence of either any organised legal advice provision or any systematic promotion of such an idea. Immediately following Frank Tillyard's action at Mansfield House, the dissemination of the Poor Man's Lawyer service throughout every major town in England and Wales can be monitored. The demand for access to legal advice was obviously a component of the progression towards democratically integrated citizenship that would result in universal suffrage and the welfare state; the Poor Man's Lawyer service was a clear precursor to the establishment of the Citizens Advice Bureau service in 1939. What differentiated the Poor Man's

Lawyer service from other voluntary networks providing social services was that it was a collective within a professional body. The 'poor man's lawyer' was always a lawyer and the applicant, no matter how briefly, was his/her client.

The lack of resources that prohibited the Poor Man's Lawyer service from pursuing cases on behalf of its clients, limited the interview time available, and therefore imposed a ration on how much justice was accessible to the poor was the service's critical failing; however, the service was also the means by which the injustice of denying a large section of society access to the law became a political and legislative priority resulting in the LAAA. The sorry fact that today's lawyers working within the legislative system of publicly-funded legal services are facing exactly the same constraints on their time and efficacy because of inadequate funding suggests that the reform process is far from complete.

- 1 See 'A brief history of Aston-Mansfield' at: www.aston-mansfield.org.uk.
- 2 Lord Bingham, *The business of judging: selected essays and speeches*, OUP, 2000: 391.
- 3 Toynbee Hall is one of numerous settlement houses that are still operating, and promoting and protecting social welfare. For more information visit: www.toynbeehall.org.uk.
- 4 John Matthews and James Kimmis, 'Development of the English settlement movement' in Ruth Gilchrist and Tony Jeffs (eds) *Settlements, social change & community action*, Jessica Kingsley Publishers, 2001: 56.
- 5 Frederick CG Gurney-Champion, *Justice and the poor in England*, Routledge, 1926: 16.
- 6 *ibid.*
- 7 Robert Egerton, *Legal aid*, Kegan Paul, Trench, Trubner & Co, 1945: 28 and Appendix A.
- 8 Robert E Stone, 'Certain European legal aid offices', September 1936, *25 California Law Review*, No 1, p57.
- 9 Frederick CG Gurney-Champion, see note 5, p25. See also Diana Leat, 'The rise and role of the Poor Man's Lawyer', vol 2, *British Journal of Law and Society* no 2, 1975, p173.
- 10 Frederick CG Gurney-Champion, see note 5, p20.
- 11 Robert Egerton, see note 7, p10, with reference to the *Times*, 27 December 1912.
- 12 Robert E Stone, see note 8, p55.
- 13 See the *Times*, 27 December 1912, p8. Correspondent Sir John Collie seemed less concerned that the 'so-called legal aid societies' were preying on vulnerable people than that they were intent on stirring up cases between employer and employee in order to 'accentuate the unfortunate antagonism that exists in some quarters between one class and another'.
- 14 The *Times*, 30 December 1912, p2.
- 15 Diana Leat, see note 9, p174.