

4-1-1954

The Legal Aid Society, New York City 1876-1951. By Harrison Tweed.

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Recommended Citation

Elmer C. Miller, *The Legal Aid Society, New York City 1876-1951. By Harrison Tweed.*, 3 Buff. L. Rev. 335 (1954).

Available at: <https://digitalcommons.law.buffalo.edu/buffalolawreview/vol3/iss2/24>

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laws¹⁰ and 100 pages of forms on "Allegation of Jurisdiction"¹¹ are just too much of a good thing. And far too many of the forms are too similar to have warranted the extra printing burden. The inclusion of a form for making a "limited" appearance¹² seems highly questionable under modern federal practice and Rule 12(b).¹³ And that portion of the book devoted to "Complaints" should be confined to illustrations of phrasing of the formal allegations and should not be cluttered up with long statements of the particular facts involved in the lawsuit from which the form is taken.

Unquestionably this set of volumes is extremely useful and will enjoy an extensive circulation, as indeed it should. There is no practitioner so literate that he does not need, from time to time, an external check-point when drafting his pleadings and other papers. This book suffices, far better than any of its fore-runners, to streamline the paperwork involved in twentieth-century litigation.

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THE LEGAL AID SOCIETY, NEW YORK CITY 1876-1951. By Harrison Tweed.* New York: Legal Aid Society. 1954. Pp. ix, 121.

It was purely coincidental that the Legal Aid Society in New York City was born in 1876 and Boss Tweed passed away in 1878. Although the author has referred to Boss Tweed, I assure you that they were not related. Attendant upon this birth, among others was Edward Salomon of German origin who became the Society's first president. Its creation became necessary to prevent the exploitation of a large group of German immigrants who had not had the opportunity to learn our language and the methods of some of our unscrupulous gentry. At this time the integrity

10. Forms 190 to 196.

11. Forms 85 to 183.5.

12. Form 47.1.

13. ". . . No defense or objection is waived by being joined with one or more other defenses or objections in a responsive pleading or motion. . . ." Special appearances are not necessary in federal courts. Indeed they are discouraged. See 2 MOORE, FEDERAL PRACTICE 2260-2265 (2d ed. 1948).

* Mr. Tweed has been president of The Legal Aid Society in New York, three times president of The Association of the Bar of the City of New York, and chairman of the American Bar Association's Standing Committee on Legal Aid Work; he is now president of the American Law Institute and of the National Legal Aid Association, a director of the Legal Aid Society of New York, a trustee of Sarah Lawrence College and recipient of the American Bar Association Medal (1952).

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of the courts was questioned, and the Bar Association was unequipped to cope with this situation. However, a particular group became aware of the grave injustices practiced upon these persons newly come to our shores.

This group was known as *Der Deutsche Rechtsschutz-Verein*, whose members formed this first legal aid corporation in the United States. Most of its incorporators were merchants, importers and professional people other than lawyers. They limited its services to those of German birth. The high type of professional services rendered soon became known throughout the city. It represented that "Our society provides not alms, which these applicants do not ask and would not accept, but justice." Soon, predatory interests advertised in the German language newspapers, that they too offered legal aid to underprivileged persons. To prevent this further exploitation it was necessary for the Society to obtain injunctive relief against the use of the name Legal Aid Society.

Mr. Salomon was succeeded by Arthur v. Breisen, also born in Germany and who one time said he came to this country, "just in time to fight the Civil War." He quickly realized the restricted functioning of the Society and the need for its services by those other than of German origin, and had its constitution amended so that all might be assisted. Soon thereafter a Seaman's Branch was established at the request of groups interested in the welfare of these men.

Many crusades were undertaken against various injustices inflicted upon its clientele during Mr. v. Briesen's tenure, chiefly among which involved the impressment of seamen and loan sharks. There was also national publicity of its activities.

Mr. v. Briesen resigned as president and director in 1916, and was succeeded by the last Chief Justice of the United States, Charles Evans Hughes. He well merited what Justice Frankfurter said:

He was genial though not promiscuous, full of fun and whimsy, a delightful tease and sparkling story teller, a responsive listener and stimulating talker, drawing without show or pedantry on the culture of a man of wide interests and catholic reading. If he made others feel his moral superiority, it was because they felt a fact. He was self-critical rather than self-righteous.

and what Justice Holmes wrote:

I shall miss him consumedly, for he is not only a good fellow, experienced and wise, but funny, and with doubts that open vistas through the wall of a non-conformist conscience.

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It was indeed fortunate that a gentleman of this stature should guide the Society during the war years which produced 206,000 cases, and made necessary the formation of a special Bureau to meet problems created by the Selective Service Act.

In 1919 Reginald Heber Smith activated the responsibility of the Bar in legal aid work by the publication of "Justice and the Poor." There followed the formation of a Committee on Legal Aid Work of the American Bar Association, through his efforts and those of Justice Hughes, then president of the Association. The New York State Bar Association and many local associations soon took similar action and shortly thereafter there was formed a National Conference of Legal Aid Societies.

Various methods of solicitation of funds were employed and for a number of years there were annual opera benefits to make the public legal aid conscious. Its funds have been provided primarily by lawyers, legal firms and laymen. In 1926 there was designed a so-called law firm plan, in which there were certain classifications of law firms, the highest of which required the payment of fifty dollars per year for each partner and ten dollars for each associate lawyer. No public funds have been received by it.

About 37 years ago a Voluntary Defenders Committee was formed and actively associated with it was the incumbent President of the Society, Mr. Timothy N. Pfeiffer. Subsequently it became a branch of the Society.

In 1938 District Attorney Dewey told of the shocking conditions existing in relation to the lack of proper representation of indigent defendants in criminal cases. He presented a plan whereby a panel of senior attorneys, qualified to try cases, would be assisted by younger members of the Bar to assist in the preparation and trial. This plan was placed in effect by the Society. It was anticipated the senior lawyers would try one or two cases a year and the juniors would devote four to six consecutive weeks in the office. A senior panel of 140 lawyers and a junior panel of 60 lawyers was formed. Assignments by the judges increased to over 50 per cent and the cases increased from 145 in 1937 to approximately 2800 in 1939. These panels, supervised by the Society's attorney-in-charge, functioned competently and effectively until the war caused its disorganization. In 1946 this type of case had increased to approximately 7500 and again an adequate panel was organized and continues to function as such. After the war a criminal branch was established in the United States Court House to provide representation in the District Court and Court of Appeals. On this occasion Judge Learned Hand said:

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For just a moment, think of yourself as a defendant named in a federal indictment, whether you be guilty or not guilty, you would be aware of one thing, and it would be this: You would realize that you were pitted against the might, power, wealth and influence of the sovereign state—a veritable Goliath of strength that wished to take vengeance upon you. You, at least, could seek and obtain counsel of your own choice, and he would insist that you be accorded each and every right that the law professes to guarantee to any man accused of crime. His ability and experience might even properly give you a safe deliverance.

But, as respects the poor, the lonely, and the friendless, this, unfortunately, has not always been the fact . . . This condition is about to be remedied. Henceforth, any alleged wrongdoer—innocent or otherwise—will have the full protection of his fundamental rights and privileges.

For this consummation—devotedly to be wished—and now upon the point of realization—my colleagues and I gladly pay tribute to the Legal Aid Society of the City of New York.

Another criminal branch was opened in Brooklyn at the insistence of Brooklyn's Chief City Magistrate.

Word of these outstanding services undoubtedly reached the Halls of Congress for there is now pending a bill¹ providing for the appointment of a public defender (as distinguished from the voluntary defender type provided by the Legal Aid Society) by a district court. It has the approval and support of Attorney General Brownell, the Judicial Conference of the United States, and Chief Justice Warren.

Within these offices there also exists a legal aid clinic. Students from Columbia, the New York Law School and Brooklyn Law School participate in this program and each devotes about six hours per week for at least one semester. This endeavor is mutually helpful. The students are provided with instructions in both civil and criminal law and participate in interviews, but of course are not permitted to give advice.

It completely fulfills the Bar's obligation to those persons who have been aggrieved in their legal rights and through poverty cannot procure legal assistance elsewhere. The Society has a legal aid clinic, a civil branch and a criminal branch. In the latter service it appears in the New York Court of General Sessions, Special Sessions, Felony courts, and the Brooklyn Felony and Special Sessions Courts, and the Youth Terms of the New York and Bronx Felony courts, and the Bronx Felony court, in addition to the Federal District Court, and Court of Appeals, and

1. H. R. 398 introduced by Mr. Celler.

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Women's Court. The Society's many and various other activities have never prevented its procuring legislation to protect the legal rights of the wage-earner, especially in relation to wage assignments and conditional sales contracts.

The Board of Directors consists of thirty-seven members, of whom six are laymen.

Although ill-considered, frequently of late, it has been stated that the Bar has lost control of legal aid and that legal aid is drifting apart from the Bar. Anent this situation: the author states "Grateful as legal aid should be, and is, to the organized Bar, it must be said that today organized legal aid does more for the profession than the organized Bar does for legal aiders. The Bar has come to recognize that legal aid wins more friends and influences people more favorably towards lawyers than anything else that has been said or done by or on behalf of the profession. It constitutes the most tangible and the most conspicuous evidence that lawyers recognize their responsibility to serve the public and to assure the success of the administration of justice through democratic procedures. It is true that legal aid needs the support of the Bar Associations but it is equally true that Bar Associations would not be as well thought of as they are if others had not played a part in meeting the responsibility of organizing legal aid. The history of legal aid—indicates how much this service has come into existence through the efforts of a few individual lawyers and layman rather than through the action of Bar Associations. Since 1946, however, the organized Bar has appreciated that it must identify itself with legal aid and it has done so to the benefit of legal aid, the profession and the public alike."

During the past twenty years,—the regimes of Messrs. Allen Wardwell, Harrison Tweed, Whitney North Seymour, Timothy N. Pfeifer, the society so progressed as to be now properly known as The Legal Aid Society.

It was heartening and inspiring to learn how nearly ideal were the practices and the conduct of the Society until the third last page was reached and incongruity there appeared. The Society might recede from its pioneering and positive policy of accepting only those funds voluntarily contributed. However, if this deviation should occur, as it may be well founded in realities, and if the society should accept public funds for the extension of its services in the Criminal Court Branch, we would feel that they were compelled to do so and would continue to remain aloof from political entanglements.

This volume is replete with facts, but fluid and particularly delightful reading because of a generous interspersal of witti-

cisms. It should have a place in all libraries and Legal Aid Societies as illustrative of a monumental effort and high achievement attained by certain members of the Bar. It shows a substantial contribution to better community life and the improvement of the fare of that little man in the street. As Judge Albert Conway so well said, "All right-thinking men agree that a person requiring the advice or assistance of a lawyer should receive it whether or not he can afford it; that it is as necessary as that he have the services of a physician when ill, and that a grievance against the administration of justice can do more social harm than suffering on account of lack of hospital facilities."²

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ADVANCE TO BARBARISM—HOW THE REVERSION TO BARBARISM IN WARFARE AND WAR-TRIALS MENACES OUR FUTURE By F. J. P. Veale. Appleton, Wis.: C. C. Nelson. 1953. Pp. xvii, 305. \$4.50

I.

This is at the same time both a tedious and a provocative attempt at the indictment of the Western Alliance of World War II for the "crimes" of "uncivilized" warfare and the subsequent "mock trials" of Nuremberg. It is based upon a "trend analysis" descriptive of a "reversion to barbarism in warfare and war-trials," and predictive of a continued advance of barbarism throughout the length and breadth of the world community.

The author, F. J. P. Veale, is identified by his publishers as "an able English lawyer with . . . a competent command of the facts of military history . . . and high humanitarian principles." His method is described as that of "tracing the gradual 'civilizing' of warfare from the days when men of the glacial periods and stone age exterminated all their enemies to the introduction of humanitarian principles and procedure during the Age of Reason, [then revealing] with terrifying completeness and candor the manner in which we have reverted to the attitudes and practices of primitives, . . . [showing] plainly that the spiritual antecedents and cultural affinities of the war-crimes trials are to be found in (1) the torturing of captive wild beasts by primitive men; (2) the practices of savages who killed off their captured enemies . . . ; (3) the collecting of the heads of vanquished enemies by primitives . . . ; (4) the systematic Tartar slaughter of captured armies and civilian population, and (5) Marxian political biology and juristic euthanasia . . ." His purpose