

## Using the law to change society

READY FOR THE DEFENSE. By Martin Garbus. Farrar, Straus & Giroux. 306 pp. \$7.95

By Jon R. Waltz

Lawyers, especially trial lawyers, like to talk about their cases. Some prominent litigators have published books about their most celebrated cases. They usually do this as they move toward the twilight of their careers at the Bar; perhaps because in times past it has taken a lifetime to accumulate enough courtroom grist for a significant book, in part perhaps they wait for semi-retirement to avoid any suggestion of improper self-advertisement.

Martin Garbus, a New York lawyer and one-time Associate Director of the American Civil Liberties Union, is thirty-seven years old. He has been practicing law for all of ten years. He has now written his first book about some of his cases. And I am very glad he has.

That Martin Garbus can fill a book of goodly length with accounts of his cases after so short a time as a courtroom practitioner demonstrates not that he is a preening self-advertiser or that he has inflated the im-

portance of the matters that came to him early in his legal career. It demonstrates how much the practice of law has changed in America in the last ten years or so.

Garbus, like many another young person graduating from our law schools since the end of the Silent Fifties, has not restricted himself to a comfortable practice with a prestigious corporate law firm, although he has been a partner in such a firm and does not sneer at the good things that good law firms accomplish. Garbus has gotten into welfare cases, voting rights cases, obscenity cases, narcotics cases; he has represented the late Lenny Bruce and the living Timothy Leary. What Garbus's book demonstrates is that today's lawyer, using the law to effect orderly social change, using it to help people, can run up a string of noteworthy cases in far less than a lifetime.

*Ready for the Defense* was not intended as an entertainment. The lawsuits chronicled by its author are, with one exception, serious and in some respects important ones. If this book interests as well as informs, and it is almost uninterruptedly interesting, it is because Garbus not only writes well but has the uncommon sense to use the crackle of verbatim trial transcript.

Half-a-dozen cases are discussed in *Ready for the Defense*. The book opens with an action under the Civil Rights Act against two Mississippi sheriffs for grievously abusing a black woman who in the year 1965, deep in Faulkner country, tried to register to vote. Her case was tried in Panola County which, as late as 1961, had 7,639 blacks, one of whom was registered to vote: a ninety-two-year-old man who had registered in 1892. The twelve white jurors found for the sheriffs, of course, but Garbus and his client, a brave woman named Henrietta Wright, had a triumph of sorts that is somehow summed up, although inadequately, in the concluding exchange between the New York lawyer and the Mississippi judge: "Judge, thank you. I've never been treated more fairly in any court." "Mr. Garbus, . . . you've done a lot of good by coming down here. Come back again."

New York District Attorney Frank Hogan, along with J. Edgar Hoover, enjoys a public reputation that manages to survive the occasional evil that he does or condones. One of the dirtiest day's work ever done by Hogan's office was the obscenity prosecution of nightclub performer Lenny Bruce for using some four-letter words in his act and thereby corrupting a roomful of drunken conventioners. One of the assistant district attorneys who tried the case said afterward, "We drove him into poverty and bankruptcy and then murdered him. . . . We used the law to kill him." Bruce did not live long enough to see the law, unbalanced, right itself. He died at the age of forty-two, hounded to death by politicians and bluenoses, two years before the New York Court of Appeals held that his act was not obscene.

The case of Mrs. Sylvester Smith, too involved to synopsise here, took Garbus to the U.S. Supreme Court, where it was solemnly adjudicated that Alabama could not deprive a dependant child of welfare aid for no more compelling a reason than that its mother was receiving "gentleman callers." In the case of Frederick Charles Wood the author tried, unsuccessfully, to save the life of a mad wretch whose one desire was to be electrocuted by the State of New York.

The concluding chapter concerns one of self-styled guru Timothy Leary's drug prosecutions. The only clap-trap in an otherwise admirable compilation is Garbus's suggestion that "Leary will be remembered as having led the movement for . . . change [in U.S. drug laws]." That is arrant nonsense. The sick and clownish Leary has done harm to that movement and made the work of rational leaders, such men as Stanford's John Kaplan (*Marijuana: The New Prohibition*), all the more difficult. ✎

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