

**An Access Catalog to
Law Without Lawyers**

THE PEOPLE'S LAW REVIEW

- articles
- interviews
- resources
- nuts and bolts
information

**... everything you need
for do-it-yourself law.**

Edited by Ralph Warner



THE PEOPLE'S LAW REVIEW

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To Our Readers

We hope that this book will be of assistance to you and your family. Although it is not primarily a “how-to-do-it” book, there are several sections which do contain specific suggestions and instructions on how to accomplish legal tasks. Many knowledgeable people have reviewed these materials and many of their suggestions for change and clarification have been included. But advice, no matter how well-intentioned, does not always bring the desired results. So, here are some qualifications. If you have retained a lawyer, and his or her advice is contrary to that given here, follow your lawyer’s suggestions; the individual characteristics of your problem can better be considered by a person in possession of all the facts. Also, laws and procedures vary considerably from one state to the next. It is impossible to guarantee that the information and advice contained here will be completely accurate for your particular location. It’s your responsibility to check local rules and procedures before following advice given here. You should also be aware that this book was printed in the summer of 1980 and that laws and legal procedures are subject to change. And finally, we call your attention to this general disclaimer: of necessity, neither the editors, authors, nor publishers of this book make any guarantees regarding the outcome or the uses to which this material is put. Thank you and good luck!



Thank You

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About Nolo Press

This book was created by Nolo Press in Berkeley, California. Nolo consists of a group of friends (some lawyers, some not) who have come to see much of what passes for the practice of law as meaningless mumbo-jumbo and needless paper-shuffling designed by lawyers to mystify and confuse. Since 1971, Nolo has published more than a dozen books designed to give ordinary people access to their legal system, and in doing so, it has become one of the principal energy centers of the self-help law movement.



Table of Contents

Introduction	1
PART I: Where We Have Been, Where We Are Going & Other Ways to Get There	3
People's Law: A Return to Self-Reliance <i>by Mort Rieber</i>	5
"Justice" as Ordeal <i>by Anne Strick</i>	9
The Backdrop of Our Legal Institutions <i>by Michael E. Tigar with the assistance of Madeleine Levy</i>	14
A Window and a Mirror: Law Without Lawyers <i>by Victor H. Li</i>	26
Law in Post-Revolutionary Cuba <i>by Katherine M. Galvin</i>	31
The Creation of Legal Dependency: Law School in a Nutshell <i>by Michael Lowy and Craig Haney</i>	36
Mediation: Reducing Dependence on Lawyers and Courts to Achieve Justice <i>by Gary Friedman</i>	42
Computers and the Law: Can High Tech Reduce Our Dependence on Lawyers? <i>a discussion between Howard Anawalt, Hugh Treanor, Toni Ihara and Ralph Warner</i>	49
Where Do We Go from Here? <i>by Ralph Warner</i>	54
PART II: Self-Help Law: How to Do It	61
An Introduction to Legal Research <i>by Peter Jan Honigsberg</i>	63

Name Changes: A Rare Situation Where Law Is Easier Than You Might Think <i>by David Brown</i>	69
Search and Seizure: What the Police Can and Cannot Do <i>by N. Robert Stoll</i>	76
How to Organize a Business as a Small Time Operator <i>by Bernard Kamoroff</i>	84
The Living Lease <i>by Michael Phillips</i>	89
Estate Planning—Why Bother? <i>by Denis Clifford</i>	92
Living Together Agreements <i>by Toni Ihara</i>	97
Crash = Cash: How to Handle Your Own Automobile Accident Claim <i>by Jeffrey Carter</i>	100
Breaking Out of the Age Trap <i>by Edith Manley</i>	107
Paying With Plastic: Protect Yourself With a Letter <i>by Howard Anawalt</i>	113
Breaking Up: Self-Help for Gay/Lesbian Couples <i>by Hayden Curry and Denis Clifford</i>	117
Bargain Basement Justice: Representing Yourself in Small Claims Court <i>by Ralph Warner</i>	124
Writers and the Law <i>by Jane Shay Lynch</i>	131
The Sun and the Law <i>by Steve Weissman</i>	144

PART III: In Pro Per	151
The Wave Project <i>by Jolene Jacobs</i>	153
Street Law: Delancey Street's Training in Social Survival Skills <i>by Carol Kizziah</i>	159
The Legal Right to Be a Father <i>by Lee Cunningham</i>	163
The Non-Profit Gambit: From Handbook to Corporation <i>by Ron Nowicki</i>	168
Law Collectives <i>by Paul Harris</i>	172
Hunting Queers With the Vice Squad <i>by Charles Sherman</i>	175
Learning to Fish: Teaching Law in High School <i>by Tom Goldstein</i>	185
The Dissolution Blues <i>by Linda Allison</i>	189
A Story of a "Jail-House Lawyer" and Helpful Suggestions Nunc Pro Tunc for Prisoners and Others <i>by William R. Gilday</i>	191
PART IV: Mediation	199
PART V: Self-Help Law Programs	237
Tenant's Rights	241
Battered Women	259
Rights of Artists	276
Other Programs	285
PART VI: Catalogue of Self-Help Law Publications	289

Introduction

This book is about eliminating the need for lawyers. Here, we gather resources and ideas that point to ways in which access to everyday law and the resolution of common disputes can be opened to all. We happily concede that we are biased in favor of the idea that all citizens should be encouraged to actively participate in the legal decisions that touch their lives. We are convinced that the average person is competent to represent herself or himself, and that the right to do so must again become a cornerstone of our democracy.

The idea that there can be law without lawyers is at least as old as recorded history. In this country, people's law was well established before the first angry gunfire in 1775 turned colonies into country. Even a hundred years ago, when our great-grandparents lived on farms or in small towns, and lawyers were modest fellows who could read and write a little better than average and owned a fire-proof box, most folks still had some chance to participate in the legal decisions that affected their lives. How these country lawyers metamorphosed into armies of ambitious grey-flanneled hustlers determined to run every aspect of our lives, while traveling first-class all the way, is a longer story than we have time to chronicle here. But it is important for each of us to face the fact that lawyer-dominance is a product of a society that preaches the value of finishing first no matter what the cost, and of the American ethic which holds that going 75 miles an hour is dandy as long as you don't get caught. Or to put it another way, it is our greed and fear that have put those crowds of esquires on the tops of every tall building in town.

If lawyers, whose tight grip now controls every nook and cranny of our legal system, were even doing an adequate job, there would be little reason for this book. Manifestly, they are not. Our legislatures are dominated by lawyers who cynically place the interests of their "profession" before those of the electorate. Our laws themselves are deliberately

made complex and unintelligible and our courts are designed to be expensive, constipated and purposefully intimidating to the non-lawyer. The situation has become so bad that, when most people face a legal problem, the best they can do is to shrug their shoulders and hope that it will go away.

But rather than dwell on all the negative aspects of American legal institutions, our goal is to communicate a sense of the excitement that comes with understanding legal rules and procedures and representing oneself in court. Whether this means that you learn how to do your own divorce, get a poem copyrighted, or force the landlord to stop interfering with your privacy, is not as important as the fact that, by taking charge of your own legal problem, you will have become a more powerful and creative person. If there is a central premise to this book, it is that there is no such thing as "abstract" justice that can be dispensed by a black-robed judge (who is, of course, nothing more than a lawyer, sitting on a wooden pedestal at the end of a drafty room), but that justice for all can only be a product of participation by all.

When we first thought about putting together information on the self-help law movement, we considered all sorts of possibilities, from doing a catalogue of people's law materials and groups, to showing how computers can be used to speed us toward the day when there will be genuine popular participation in our legal system. Along the way, we considered creating materials which provide practical information on how to deal with the existing laws and courts, as well as the value of exploring how other societies deal with law and lawyers. And then there were those of us who wished to do a book on mediation as an alternative to our adversary system; others expressed the view that, before we talk about fundamental changes in our legal institutions, it is necessary to understand the history and philosophical underpinnings of our law. Each one of these subjects is in itself so large as to be beyond our

power to fully deal with. Nevertheless, in the end we decided to take them all on. We thought that with a little luck we could put together a potpourri of people's law and then stand back and look for those spontaneous connections that lead to new and exciting insights.

None of the editors of this book has ever done anything like this before, and we have had a genuinely exciting time inventing as we have gone along.

*Berkeley, California
Summer, 1980*

When we began, we all thought we knew a lot about self-help law and how ordinary folks could make it a part of their lives. As our publication date drew near, though, we deepened our understanding to the point that we realized that we knew (and know) very little. Indeed, we wouldn't be the least surprised if some of your ideas are better than some of ours. If so, what can we say except—welcome to the people's law movement.

Ralph Warner

=====★ A note to—and about—lawyers ★=====

In these pages lawyers tend to be pictured (rather regularly) as ogres. Indeed, we do have a considerable bias against the profession as a whole and what we feel is its negative power in our society. That said, let us say too that we know many wonderful, concerned people who happen to be lawyers. Come to think of it, many of the people who worked on this book are lawyers who have abandoned their "professional" role while holding on to a love for the law. Oh, and one more thing: the self-help law movement has not yet developed the information and resources to help you solve all of your legal problems. There are times when you will need the information and assistance that a lawyer can provide. But we hope you will not see a lawyer until you have legally researched a problem as much as possible on your own so that you can relate to your lawyer as your advisor, and not your master. Remember, the Latin root of the word "client" is "to hear," "to obey."



PART I

Law: Where We Have Been, Where We Are Going, & Other Ways to Get There

When we think about the deficiencies of our existing legal system, it's easy to accept the broad outline of the way things are done and to try to improve them by tinkering with details. For example, we might push for procedures to streamline divorce, but not take time to ask why we entrust the details of our domestic lives to the courts in the first place.

So, before we get down to the nitty-gritty of particular laws, procedures, and courts, let's take a few minutes to get a little perspective. It is important to realize that the regulation of human conduct has been handled very differently in various ages and parts of our planet. Thus, there seems to be no reason to be in awe of some grand absolute called THE LAW because no such thing exists. In actuality, law is a relative concept, changing with time and circumstance.



St. Yves is from Brittany
A lawyer but not a thief
Such a thing is beyond belief

*A popular rhyme about a 14th
century lawyer who was made a saint
because he represented the poor.*

People's Law: A Return to Self-Reliance

by Mort Rieber

One of the most exciting things we learned while preparing this book was that there was once an active, vibrant people's law movement in the United States. Having worked with self-help law for years, it is amazing that we didn't know this. But lawyers chanting the mantra of their union—that "a man who represents himself has a fool for a client"—have so hidden our tradition of legal self-reliance, that it has never occurred to most of us that their absolute control of our legal system is a recent phenomenon.

We live in an age in which we are constantly reminded how much we need experts to help us deal with even the simplest aspects of everyday life. From our earliest days in the schoolroom, we have been taught to rely not on our own abilities, but on the expertise of the specialist. Reinforced by advertising that extolls the virtues of the professional, even in such relatively uncomplicated matters as carpet cleaning and dog grooming, it is not surprising that the vast majority of the public is convinced that only an obstetrician can deliver a baby and only a lawyer can draw up a will form.

This ubiquitous reliance on experts is a relatively new phenomenon in the history of our nation. Not more than 100 years ago the majority of the population lived in rural areas, often a considerable distance from cities and shops. As a matter of necessity, people learned, from an early age, to be self-reliant. Soap and candle making, leather tanning, housebuilding, metal forging, weaving, and a multitude of other skills were common knowledge in most households.

Surprisingly enough, it was not only home and farm skills that were common knowledge. By 1879, John Wells had published his newly revised edition of *Every Man His Own Lawyer*. This book was sold as "a complete guide in all matters of law and business negotiations for every State of the Union. With legal forms for drawing the necessary papers, and full instructions for proceeding, without legal assistance, in suits and business transactions of every description." Apparently, the popularity of this book

was widespread. In the introduction, the author states "The original edition of this work was prepared and presented to the public many years ago and was received with great favor, *attaining a larger scale, it is believed, than any work published within its time*" [italics added]. He goes on to say that hundreds of thousands of copies of the former editions were sold.

Layman's Law was nothing new. It was part of a tradition that went back to colonial times. Eldon Revare James, in his *A List of Legal Treatises Printed in the British Colonies and the American States Before 1801*, came to the conclusion that:

In the hundred years between the publication in 1687 of William Penn's gleanings from Lord Coke and the issuance of the American editions of Buller's *Nisi Prius* and Gilbert's *Evidence* in 1788, not a single book that could be called a treatise intended for the use of professional lawyers was published in the British Colonies and American States. All of the books within this period which by any stretch of definition might be regarded as legal treatises were for the use of laymen.

As early as 1784, another book entitled *Everyman His Own Lawyer* was in its ninth edition. Published in London as a comprehensive guide to both civil and criminal law, it was divided into seven sections covering the following diverse topics:

- I. Of Actions and Remedies, Writs, Process, Arrest, and Bail.
- II. Of Courts, Attorneys and Solicitors therein, Juries, Witnesses, Trials, Executions, etc.
- III. Of Estates and Property in Lands and Goods, and how acquired; Ancestors, Heirs, Executors and Administrators.
- IV. Of the Laws relating to Marriage, Bastardy, Infants, Idiots, Lunatics.
- V. Of the Liberty of the Subject, *Magna Charta*, and *Habeas Corpus* Act, and other statutes.
- VI. Of the King and his Prerogative, the Queen and Prince, Peers, Judges, Sheriffs, Coroners, Justices of Peace, Constables, etc.

VII. Of publick Offences, Treason, Murder, Felony, Burglary, Robbery, Rape, Sodomy, Forgery, Perjury, etc. And their punishment.

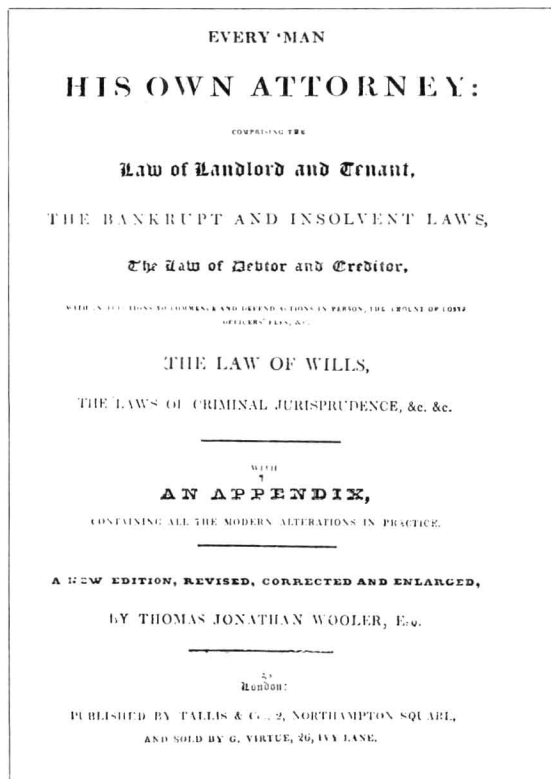
In addition to dealing with almost every aspect of law, the book also promised that "All of (the topics) so plainly treated that all manner of persons may be particularly acquainted with our laws and statutes, concerning civil and criminal affairs, and know how to defend themselves and their estates and fortunes, in all cases whatsoever."

Today, many critics have referred to the unnecessary expense inherent in our legal system.

Much has been recently done, to simplify and harmonise the system of practice in the courts; something has been gained in point of expedition; but little, if anything, in the reduction of the *expense* of bringing and defending actions. Useless proceedings are still required, apparently for no other purpose than to extract money from pockets of the unfortunate suitors. Forms, the pretenses for which have been long exploded, are pertinaciously adhered to, merely because they are productive of emolument to the retainers of the courts;—and while this is the case, legal proceedings will remain characterised by an uncertainty of result, a loss of time, and a ruinous expense, which should induce every one to learn as effectually as possible to guard against a seduction into its labyrinths, or, if entangled in them, to make the most easy and expeditious escape.

Lest one think that this criticism of the legal establishment is a relatively recent phenomenon, this statement appeared in Thomas Wooler's preface to *Every Man His Own Attorney*, published in 1845.

Although lawyers command respect of the nearly exclusive access to the world of legal affairs, it would not be unfair to say that this respect is granted rather grudgingly. The public's disdain for lawyers dates back at least to biblical times. "Woe unto you, lawyers for ye have taken away the key of knowledge: ye entered not in yourselves, and them that were entering in ye hindered." (Luke 11:52) Biblical criticism was not directed just at lawyers. Even then, the judicial system itself came under attack when Jesus warned "Agree with thine adversary quickly, whiles thou art in the way with him: lest at any time the adversary deliver thee to the judge, and the judge deliver thee to the officer, and thou be cast in



prison." (Matthew 5:25)

Early lay guides to law recognized the dangers of a system which was structured so that one had to depend upon professional counsel to protect one's vital interests. Distrusting lawyer's motives, Wooler in 1845 saw the necessity for educating the public for their own protection.

When attorneys are employed, they must be paid; and their charges are not always regulated either by their abilities, or their services to a client, but by their own desire to make as much as they can. This evil can only be remedied by making their clients well informed on common subjects, and able to see what course they are taking in matters of more intricacy.

Coming out of a self-reliant pioneering tradition, how did we ever get into a situation where we do not trust our own judgment and abilities on matters which are so important in our everyday life? In her carefully documented analysis of the rise of professionalism, especially in the last century, Magali Larson¹ writes of the monopoly of competence

created by professionals to protect their special status within society.

The visible professions which have a clear monopoly of competence—and not only a monopoly of practice—have *authority* over a kind of knowledge that is important for every man's life. The gap in competence between professionals and laymen, institutionalized by the monopolies of training and certification, ipso facto sets *every* professional apart: he belongs to a privileged society of "knowers," which the public tends to identify with its elite spokesmen. The "mysteries" interpreted by the individual professional have been named and partially revealed to the public before he comes in. It is a rare individual who can challenge by himself the whole image of a field and the social construction of an aspect of reality in which professional elites are particularly active and influential.

Institutionalized education, which plays a major role in perpetuating the myth of the average citizen's incompetence, has established the paradox that, along with an almost complete eradication of illiteracy, there is an equally thorough dependency on experts and specialists. As many critics of our educational system have pointed out, the main function of our schools is certification rather than education, and so the special interests of the certifiers become closely tied to the interests of those certified; so much so, that these two interest groups conspire to structure society in such a way that they maintain their monopolistic control.

The material and ideological importance of the educational system for both the consolidation of professions and the reproduction of the social order cannot be overemphasized. (Larson, p. 239)



*Yours Truly,
John G. Wells*

NEW REVISED EDITION.

WELLS'
EVERY MAN HIS OWN LAWYER

AND
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WITH LEGAL FORMS FOR DRAWING THE NECESSARY PAPERS, AND FULL
INSTRUCTIONS FOR PROCEEDING, WITHOUT LEGAL ASSISTANCE,
IN SUITS AND BUSINESS TRANSACTIONS OF EVERY
DESCRIPTION.

BY
JOHN G. WELLS,
AUTHOR OF "ILLUSTRATED NATIONAL HANDBOOK," "ARMY AND NAVY HANDBOOK," "CHICAGO AS IT WAS AND IS," ETC., ETC.

With a Portrait of the Author.

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Our legal system, which is based on precedence, has served to further mystify and sanctify the lawyer's job. De Tocqueville, writing in the mid 1800's, observed:

The absolute need of legal aid that is felt in England and in the United States, and the high opinion that is entertained of the ability of the legal profession, tend to separate it more and more from the people and to erect it into a distinct class. The French lawyer is simply a man extensively acquainted with the statutes of his country: but the English or American lawyer resembles the hierophants of Egypt, for like them he is the sole interpreter of an occult science. (de Tocqueville, *Democracy*, p. 287.)

Considering the fact that the percentage of lawyers in the U.S. House of Representatives and Senate has varied from 55 to 75% in recent decades (with similar figures in state legislatures), it is not surprising to see that the cumbersome nature of our system of justice continues to exclude most of us from access to it without placing our complete trust in the hands of an attorney.

The trend towards mystification of competence brought about by the enormous growth of professionalism has resulted in a subtle form of disenfranchisement of the person. Writing about the effects of this process, Theodore Roszak² states "Mystification is aggression upon the spiritual autonomy of others; it is inevitably a depersonalizing assertion of hierarchical status based on the assumption that there is an authority somewhere that has the right to assign and enforce identities."

Over the past few years, there has been a growing awareness of the sacredness of each individual human being's uniqueness and competence. This desire to know and understand ourselves is reflected in the many faceted experiments in self-realization that can be seen in the new therapies—roughly categorized under the heading of Human Potential

Movement—as well as the ever increasing number of liberation movements (women, gays, Native Americans, etc.) and the growing interest in spiritual development. Increasingly, and along many different paths, there is a dawning of consciousness that proclaims to self and others "I matter, I am special, I am competent." This attitude naturally leads to a desire to take charge of one's life and is the antithesis of an attitude of chronic dependence upon experts and professionals.

As a Saturday visit to the local home improvement center or automotive parts supermarket will demonstrate, more and more people are trying out their abilities in areas which are so essential for everyday living, yet are almost completely ignored by conventional schooling. Understandably, the urge to demonstrate one's competence will manifest first in those areas which are concrete and relatively simple to understand. But along with this, many are testing their new found confidence in their abilities by taking charge of more complex matters in their life, such as health maintenance, and legal matters. The growing popularity of self-help law books is testimony to the fact that people are reasserting their right to take care of their own affairs, as part of the process of self-discovery.

1. Larson, Magali S., *The Rise of Professionalism—A Sociological Analysis*, University of California Press. Berkeley, 1977.

2. Roszak, Theodore, *Person/Planet: The Creative Disintegration of Industrial Society*. Anchor Press/Doubleday. New York, 1979.



Mort Rieber is an itinerant psychology teacher who lives in the country and spends much of his time raising children and vegetables.