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Lowering the Bar: Lawyer Jokes and Legal Culture

By Marc Galanter

University of Wisconsin Press, Madison, WI, 2005. 260 pages, \$45.00.

REVIEWED BY MICHAEL COBLENZ

Q: Why are lawyers buried twenty-five feet underground?

A: 'Cause down deep they're really nice guys.

Apparently a lot of people do not like lawyers, and they often express their disdain by making fun of them. But why do so many people dislike

lawyers? According to Marc Galanter's *Lowering the Bar*, it is because of lawyers' social prominence and influence. Galanter analyzes the scorn heaped on lawyers by looking at contemporary lawyer jokes. This book, in fact, is as much a joke book — containing more than 300 jokes — as a serious analysis of society's attitudes toward lawyers.

Galanter segregates the jokes into seven somewhat overlapping categories and suggests that the jokes provide insight into what the public thinks of lawyers. The book includes a historical core of jokes and a new breed of jokes. Historically, the public viewed lawyers as liars or corruptors of discourse, greedy economic predators, allies of the devil, and the source of conflict, rather than the solution to it. Recently, scorn and contempt has been directed at a new group of perceived ills, with jokes now showing lawyers as betrayers of trust, morally deficient persons, and general objects of scorn. Lawyers are so despised, in fact, that an entire corpus of death jokes has arisen about them.

The irony is that the jokes describe traits and behaviors for which lawyers are both despised and esteemed. Lawyers are admired for their often artful use of language, for example, but in many cases artful language can be seen as an attempt to hide the truth. Lawyers are often blamed for "misusing and corrupting language, perverting discourse by promoting needless complexity, mystifying matters by jargon and formalities, robbing life's dealings of their moral sense by recasting them in legal abstractions, and offending common sense by casuistry that makes black appear white and vice versa."

Q: "Papa, do lawyers tell the truth?"

A: "Certainly, my boy; they will do anything to win their case."

Lawyers' willingness to twist language leads to the perception that they are liars (and there are plenty of puns based on the similarity of those two words). This perception is exacerbated by the fact that lawyers often take cases in which they do not be-

lieve. Their willingness to take just about any case and to make money from it leads to the view of lawyers as greedy economic predators.

A businessman was involved in a costly lawsuit which carried the threat of imprisonment. "I know the evidence is strongly against my innocence," he told his attorney, "but I have \$50,000 in cash to fight the case."

"As your lawyer I can assure you," said the attorney, "you will never have to go to prison with that amount of money."

And he didn't. He went there broke.

It is sad but true that lawyers often profit from the troubles of others, but Galanter suggests that the deeper source of this resentment is that justice is perceived as a right that belongs to all people: "The true offense of lawyers is to take something of ineffable value like justice ... and debase it by commercializing it." Lawyers' willingness to engage in seemingly duplicitous behavior, and to do so at the expense of someone else's misfortune, leads to the view that lawyers are morally corrupt, perhaps even evil — maybe even the devil's playmates.

As the lawyer slowly came out of the anesthesia after surgery, he said, "Why are all the blinds drawn, doctor?"

"There's a big fire across the street," the doctor replied. "We didn't want you to think the operation had been a failure."

Galanter offers an interesting alternative explanation for why lawyers are demonized. Historically, priests were the most frequent subject of ridicule, but, in the 1600s, the influence of religion waned and law became the central source of order in human affairs. Lawyers began to replace priests in social prominence and influence, and many people who were concerned about increased secularization turned on one of its agents — lawyers. But the increased secularization of society and the increased reliance on lawyers to solve conflicts, coupled with the

fact that lawyers often profit from those conflicts, led to the view of lawyers as the source of, rather than the solution to, social conflict.

A businessman was involved in a lawsuit that dragged on for years. One afternoon he told his attorney, "Frankly, I'm getting tired of all this litigation." The lawyer replied, "Nonsense. I propose to fight this case down to your last nickel."

Galanter notes that lawyers are one of the few groups that it is still acceptable to ridicule. Just as lawyers replaced priests as the butt of jokes in the 17th century, they replaced racial and ethnic minorities as the object of ridicule in the late 20th century. The scorn exists, despite the fact that surveys show that most people are satisfied with their own professional dealings with lawyers. But the jokes reflect a sense that lawyers as a group have gained far too much power in society and are duplicitous and generally untrustworthy.

A doctor and a lawyer in two cars collide on a country road. The lawyer, seeing that the doctor was a little shaken up, helped him from his car and offered him a drink from his hip flask. The doctor accepted and handed the flask back to the lawyer, who closed it and put it away. "Aren't you going to have a drink yourself?" asked the doctor. "Sure, after the police leave," replied the attorney.

Whereas lawyers used to be accused of being in league with Satan, modern jokes compare lawyers with prostitutes, noting three similarities between the legal profession and the oldest profession: (1) neither is picky about its clients, (2) both do what the client wants, and (3) both make money from the needs of their clients. Despite the similarities, however, the "prostitute is honest — the buck is her aim. The lawyer is dishonest — he claims that justice, service to mankind,

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is his primary purpose." This view comes in part from the adversarial system, in which justice emerges from a clash between often vicious partisans. The tactics common in litigation create the impression that a lawyer will do whatever it takes to win and doesn't care about anything or anyone else.

A corporate lawyer and Mother Teresa get stranded in a desert. Two weeks later, a rescue plane lands. The pilot finds Mother Teresa dead, while the lawyer is calmly resting with his hands under his beard.

"This is awful," the pilot says, "Mother Teresa is dead!"

"Yeab," the lawyer says.

"Tell me, how come you survived and she didn't?"

The lawyer shrugs, "She never found the water hole."

Hatred of lawyers has given rise to so many jokes that Galanter had to create a catch-all category for some lawyer jokes: lawyers as the object of scorn. These jokes don't contain any specific reference to particular behavior that is contemptible; they just indicate a generalized disdain for lawyers.

A man died and was taken to his place of eternal torment by the devil. As he passed sulfurous pits and shrieking sinners, he saw a man he recognized as a lawyer snuggling up to a beautiful woman.

"That's unfair!" he cried. "I have to roast for all eternity, and that lawyer gets to spend it with a beautiful woman."

"Shut up," barked the devil, jabbing him with his pitchfork.

"Who are you to question that woman's punishment?"

Not only do people hate lawyers — they seem to want them dead. "Death to lawyer" jokes, Galanter writes, are the most common type of lawyer joke in circulation today. This is, in part, a result of the increase in the number of lawyers in the United States. But even though the country has more lawyers

than it used to have, there are nowhere near as many lawyers as some politicians claim there are. Former Vice President Dan Quayle famously stated that the United States has 70 percent of the world's lawyers, but he was wrong. According to Galanter, the United States has about 25 percent of the world's lawyers — still a sizable share, but one that is roughly equivalent to America's share of the world's economy. Nevertheless, the number is high enough that people wouldn't mind getting rid of a few.

A lawyer called the governor's mansion at 3:30 a.m., insisting that he must speak to the chief executive on a matter of extreme urgency. Eventually an aide decided to awake the governor.

"Well, what is it?" demanded the governor.

"Well, Governor," said the caller, "Judge Parker just died, and I want to take his place."

The response came immediately:

"It's all right with me, if it's all right with the undertaker."

The public apparently views the law and justice as two separate things and, as a result, sees lawyers as enemies of justice. People consider justice an inherent right and therefore they should not have to pay a lawyer to obtain it. And because lawyers cost money, it seems to follow that the legal system favors the rich. Hence, there are plenty of jokes about "the best justice money can buy" — some of which were prompted by the O.J. Simpson trial.

The great Lord Chief Justice Coleridge was in a hurry and called a cab.

"Take me as quickly as possible to the Courts of Justice."

"Where are they?" asked the man.

"What! You, a London cabby and you don't know where the Law Courts are?"

"Ob! The Law Courts! I thought you said the Courts of Justice."

This is a light and highly amusing book, but it also raises interesting issues. The prevalence of lawyer jokes is often cited as evidence of the public's distaste for lawyers and is used to justify calls for changes in the legal system. It is good to know, therefore, that the prevalence of jokes is as much a reflection of the prominence of lawyers as it is a condemnation of individual lawyers. *Lowering the Bar* is well worth reading, and, whatever you think of its analysis, you'll have some great jokes for the next cocktail party.

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LawyerLife: Finding a Life and a Higher Calling in the Practice of Law

By Carl Horn III

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175 pages, \$30.00.

REVIEWED BY JONATHAN R. HARKAVY

Reports about the legal profession's eroding reputation and about lawyers' dissatisfaction with the practice of law have continued unabated for the past several years. In the wake of this state of affairs, a spate of books and articles — both anecdotal and scholarly — about the travails of being a lawyer have sprung forth like mushrooms after a spring rain. One small book by a federal judge in North Carolina, however, confronts the current professional malaise with practical sense and plain English, as well as with a durable prescription for living one's life as a lawyer.

The subtitle of *LawyerLife*, by U.S. Magistrate Judge Carl Horn III, poses the central dilemma that the book addresses: "Finding a Life and a Higher Calling in the Practice of Law." Horn's approach to the problem is to argue like a cool-headed lawyer but to reason like a warm-hearted human being. His suggestions cannot be easily distilled into a pithy maxim, because he