



Have You Heard the New Lawyer Joke About ...

MARC GALANTER

LOWERING THE BAR: LAWYER JOKES AND LEGAL CULTURE
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I DO NOT THINK I would be out of line in supposing that when a tenured academic confronts a hundred and fifty final exam blue books he pauses and dreams of another life. He sees himself submitting a book proposal directed to a well-funded non-profit foundation. He is accepted. He is spending a year in residence at I Tatti outside of Florence or at the Rockefeller villa at Lake Como. He writes the book. He calls his friend at a prestigious University Press. The book appears in hardback, it is reviewed in the New York Times, the Wilson Quarterly, the New York Review of Books, and the Times Literary Supplement. And as they say, then the pipe goes out. He grades another twenty blue books.

He puts down his pen. He asks himself what would be a good subject that would get him a grant? Something beyond Abraham Lincoln, Samuel Johnson, Marxism, conflicts among the founding fathers, and the Reasonably Prudent Man. Something new and slightly offbeat.

Would you think an unlikely proposal

for a book entitled *Lowering the Bar: Lawyer Jokes and Legal Culture* would be a lottery winner? Well, it was. I have the book in hand, published by the University of Wisconsin Press, written by Professor Marc Galanter, of the University of Wisconsin Law School. It is set up nicely with academic flourishes. The notes and references run 148 pages. It is a book well worth reading. It uses the lawyer jokes as an anthropological study of discontent in the practice of law among both the lawyers and the public.

Professor Galanter reports what he assumes we already know. A member of the public has no use for a lawyer until he needs one. And when he needs one he wants one who will win his case by fair means or foul. I can set it down, based on experience, that no lawyer is as bad as his client wants him to be. I can also set it down that lawyers who do real law work try to obey a reasonable moral code that places them a step or two above the general run of people.

Lawyer disdain, in the words of the model general release, commenced from the

beginning of the world to present. There have been occasional lapses such as those triggered by such things as Gregory Peck's appearance as Atticus Finch in "To Kill A Mockingbird". What is new in lawyer disdain is the proliferation of lawyer jokes.

Galanter opens with a joke. Chief Justice William Rehnquist, in 1997, speaking at the dedication of a new building at the University of Virginia Law School noted the presence in the audience of both lawyers and non-lawyers:

In the past, when I've talked to audiences like this, I've often started off with a lawyer joke, a complete caricature of a lawyer who's been nasty, greedy and unethical but I've stopped that practice.

I gradually realized that the lawyers in the audience didn't think the jokes were funny and the non-lawyers didn't know they were jokes.

Galanter includes a cartoon depicting two prosperous, self-satisfied lawyers walking away from Court, each with his brief case. The caption is, "There's one thing about the law I always wanted to know but was afraid to ask: Where in the hell do all the lawyer jokes come from?"

The answer may be that the jokes come from the fact that lawyers have an impressive and demanding Professional code but they carry on their highly competitive business in the market place, as a PLLC, or a P.C. or an LLP. They have equity partners, non-equity partners, consultants, and originating credits. The separation between the demanding Professional code and the rules of the market place is expanding. The Professional code no longer fits the practice. The sleeves are too short and the pants are too baggy. Much like the get up of a burlesque comedian. The territory between these two irreconcilable demands is hypocrisy, a big

target for stand-up comedians.

Galanter undertakes a careful analysis of recurring joke themes:

I have organized some of the common themes into nine clusters. Five of these focus on substantive complaints about the things lawyers do, namely, that they are (1) corrupters of discourse, (2) economic predators, (3) fomenters of strife, (4) betrayers of trust, and (5) enemies of justice. The other four clusters focus not on the deeds of lawyers but on their character and standing and on our response to them. They characterize lawyers as (6) allies of the devil, (7) morally deficient, (8) objects of scorn, and (9) candidates for elimination.

He gives examples of each. How about this for Corrupters of Discourse:

A sheep-herder was accused of having robbed a store. He was caught with the goods so his lawyer said, "Our defense will have to be insanity. I will contend that the loneliness out there for weeks at a time with the sheep caused you to lose your mind. When I put you on the stand and ask you questions, you answer each one by saying 'Ba-a-a.'"

The defendant agreed. His lawyer asked, "What is your name?" and the prisoner replied, "Ba-a-a." "What is your age?" Again, "Ba-a-a." The jury was convinced and freed the accused.

Out in the courthouse corridor, the attorney said to his client, "And now how about paying me my fee?" The other said, "Ba-a-a."

And this for Morally Deficient:

Templeton was a loathsome young man, but one with such an orderly mind and clear grasp of the tax code that his year's billings were approaching the ten-million dollar mark, far exceeding

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those of any other junior partner. Yet his conduct was such that one day the president of the firm called him in for a reprimand.

"Your behavior and moral standards are reprehensible," the executive pointed out sternly. "You cheat on your expense account, you miss no chance to backstab the other junior partners, you've embezzled a substantial amount from the company, you get kickbacks from half your clients, and I just found out you've been sleeping with my wife. Now I'm warning you, Templeton – a few more missteps, and you're out!"

And this for Objects of Scorn:

What do you need when you have three lawyers up to their necks in cement? More cement.

What do you call six thousand lawyers at the bottoms of the sea? A good start.

Bob Hope particularly liked lawyer jokes.

He gave his papers, including his joke collection, to the Library of Congress, where it is part of the Bob Hope Exhibit, a marvelous history of vaudeville, musical comedy, radio and TV, and lawyer's jokes.

Professor Galanter concludes his extended tour of lawyer jokes with a prediction that they will stay with us and even become more biting. The tone has moved from gentle mockery to mean-spirited scorn and aggression. He says, "Where twenty-five years ago there were only a scatter of stories, there are now large new clusters of jokes about lawyers' treachery, moral deficiency, public obloquy, and suitability for extermination."

This reflects an anxiety about justice which is more intense in the United States than other places. Americans rely on law as a way to solve all the problems. An illusion followed by disillusion followed by "Let me tell you about the lawyer and his friends stranded in shark infested waters ..." *GB*