

BOOK REVIEW

LAWYERS GONE BAD: MONEY, SEX AND MADNESS IN CANADA'S LEGAL PROFESSION

BY PHILIP SLAYTON

Reviewed By Julia Renouf*

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I always said that I would never become a lawyer, or worse, marry a lawyer. I believed that lawyers were self-important, immoral workaholics, that lawyers bent the truth all day long so that even when they were out of the office they didn't really know what was right and what was wrong. I believed that lawyers cared more about their potential liability than another person's potential injury. I ended up going to law school, but I try my best to take an outside perspective, though I often fall astray. I see now only in shades of gray. My non-law friends often point out, much to my embarrassment and to their annoyance, how quick I am to focus on the legal issues in their personal crises.

So I was excited with all the hype created this past summer by the *Maclean's* issue with the headline "Lawyers are rats",¹ which featured an interview with Philip Slayton regarding his then upcoming book *Lawyers Gone Bad*.² I laughed when the Canadian Bar Association delivered its overzealous response,³ which only confirmed my opinion that lawyers don't respond well to criticism. I looked forward to reading the book. Unfortunately, I was sorely disappointed. Instead of being a thoughtful analysis of potential problems with Canada's legal system and its allowance (even encouragement) of problematic practitioners, the book is instead a series of sensationalist stories. The accounts of "lawyers gone bad" are choppy and hard to follow. The stories are one-sided. Slayton writes like a gossip columnist, devoting pages to rumours, and gives the explanations of the fallen lawyers only a line or two. These explanations are responded to in a mocking tone accompanied by a description of his subject's declining appearance and living conditions. His style is reminiscent of Rita Skeeter.⁴

In this book Slayton delivers fourteen stories about twenty different lawyers in Canada who have behaved contrary to legal ethics. Most of the instances of wrongdoing were proven through criminal proceedings and/or disciplinary proceedings under the particular provincial bar though some of the wrongs were merely alleged. The misdeeds these lawyers committed are

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1 Kate Fillion. Lawyers are rats. A top legal scholar exposes the corruption of his profession. *MacLean's Magazine* (26 July 2007), online: Macleans.ca <http://www.macleans.ca/article.jsp?content=20070726_161005_9580>.

2 Philip Slayton, *Lawyers Gone Bad* (Toronto: Viking Canada, 2007).

3 CBA Press Release, "CBA condemns unfair characterization of lawyers in *Maclean's* magazine" (July 26, 2007).

4 Rita Skeeter, notorious journalist in the Harry Potter series, is known for bending the truth and taking quotes out of context. See J. K. Rowling, *Harry Potter and the Goblet of Fire* (Vancouver: Raincoast Books, 2000).

varied. Fraud and over-billing are common crimes in these stories. More outrageous is the story of Ingrid Chen, a Winnipeg lawyer who sometimes broke the law to assist clients immigrating to Canada. When one client did not pay up, she conspired with the Mob to injure him.

Many of these lawyers seem to be suffering from mental illness. For example, Marvin Singleton has spent the last three and a half years in prison (the last two in maximum security) in the United States to avoid extradition to Canada where he faces charges for fraud and theft. He says that the Canadian attempt to extradite him “was a politically-charged opportunity to bait in Canada an individual perceived as an American”.⁵ It is a story of a person likely suffering from paranoia. Agnew Johnston’s troubles began when after a series of personal losses. He became depressed and an alcoholic, and soon after he began consorting with underage prostitutes.

Mostly, these are stories of downfalls, where things go from bad to worse. Michael Bomek was convicted of sexually assaulting men who were his clients. After his time in prison he was found to be selling drugs from the hot dog stand he operated. Most recently, he was convicted of sex crimes involving children. Martin Pilzmaker committed suicide after being charged with 57 counts of conspiracy, fraud, and other charges.

The author, Philip Slayton, graduated from Oxford University as a Rhodes Scholar and subsequently clerked for the Supreme Court of Canada. He then spent thirteen years as a legal academic teaching at McGill Law School and was Dean of Law at the University of Western Ontario. In 1983 he joined the Bay Street firm, Blake Cassels & Graydon, where he practiced until 2000.

You can’t take the lawyer out of Slayton. Besides writing the book much like a legal memo, he has biases and opinions that call out his former profession. Early on in discussing how lawyers sometimes cross moral boundaries, instead of focusing on why the conduct is wrong or hurtful, his main concern seems that they were caught, noting that some lawyers “cheat despite the fact that a law society may disbar a member found to have overbilled.”⁶ Slayton makes it seem as though the greater evil is lack of intelligence rather than lack of ethics. He writes of one lawyer, “he was slandered and vilified, described as unethical, devious and dishonest and called a liar, a crook and a dangerous corrupter. The final insult: Pilzmaker was labelled “absolutely stupid.”⁷

In reading the book, because of the way Slayton writes about them, I frequently found myself feeling more sympathy for the criminals who are featured than I did for the public of whom they took advantage. Bruce McLeod, a real estate con-artist, was convicted of fraud and sentenced to five years in prison. Slayton quotes a prosecutor who says that McLeod didn’t do so well in prison. A few pages later, Slayton confronts McLeod with that rumour and McLeod denies it. He then seems to mock McLeod, who tells Slayton the next day that his prison guard will attest that things went well in prison.

The most disappointing aspect of this book is that Slayton does have a point; he does have something to say, but the way he brings it across detracts from his message of reform. In the introduction, Slayton discusses some of problems with Canada’s legal system. He explores findings that “lawyers suffer from depression, anxiety, hostility, paranoia, social alienation and isolation, obsessive-compulsiveness, and interpersonal sensitivity at alarming rates.”⁸ He looks at the causes of these problems, such as how students are taught in law school that it is not their job to judge their clients, but to assist them in achieving their objectives by any means

5 Slayton, *supra* note 2 at 200.

6 *Ibid.* at 8.

7 *Ibid.* at 29.

8 Patrick Schiltz, “Those Unhappy, Unhealthy Lawyers,” *Notre Dame Magazine* (Autumn 1999), online: *Notre Dame Magazine* <<http://www.nd.edu/~ndmag/legl2f99.htm>> cited in *Ibid.* at 7.

legally possible. He presents an explanation by Martin Seligman, who in *Authentic Happiness* says that lawyers become pessimists, viewing bad events as “pervasive, permanent, and uncontrollable, rather than local, temporary and changeable.”⁹ Seligman adds that “if you don’t have this prudence to begin with, law school will teach it to you.”¹⁰

Slayton asks the right questions, such as whether is it the people who choose to go into law school who bring with them these disorders, or if it is the profession that leads to them. He examines the effect of allowing law firms to operate as limited liability partnerships, which he argues results in prudent lawyers offering less collaboration and oversight to other members of their firm than in the case of a general partnership. But, at the same time as stating that there are serious systematic problems, he takes the easy way out, and says that these are just a few case studies and that most lawyers are upstanding citizens.

Unfortunately, the book does not fulfill the potential of the introduction. Mr. Slayton seems to write off many of the behaviours in the book not as systematic, but as psychopathic. Instead of returning to the studies and analyses mentioned in the introduction, the remainder of the book only really focuses on the need for an independent governing society.

Despite its many shortcomings, good does come from “Lawyers Gone Bad”. Not least is that the short sensationalist stories make for an entertaining and interesting read. The book also engages us in debate. Reading this book might encourage clients to question their lawyer’s work and billing practices, and to report problematic conduct to law societies. It may also encourage other lawyers to keep watch of their colleagues.

More specifically, this book challenges the make-up of the disciplinary bodies governing lawyers. Throughout the book, Slayton focuses on the disciplinary actions of law societies. He demonstrates how there can be very different consequences for similar crimes (much like our judicial system). He also demonstrates how the law societies do not always appropriately respond to the needs of the public. For example, when Christina Finney complained about lawyer Eric Belhassen in 1990 to the Quebec Bar Association, despite the numerous investigations and reprimands directed at him between 1979 and 1990, she was told that he was a lawyer in good standing and that she should settle with him. In the last chapter, Slayton focuses on law society reform. He looks at a recent report on the British system which recommends that a new independent body be created to investigate complaints against lawyers.¹¹ The proposed system would focus on the consumers of legal services rather than its providers. Slayton argues it is time for similar reforms in Canada.¹²

This book was an important one to write, but it did not meet its potential. Slayton’s message that the legal system requires reform is necessary, yet the way it is written detracts from the message. Throughout the book, I found myself questioning his integrity, which undermined the truth of his content. At the end of *Lawyers Gone Bad*, the reader is left with a different message: the lawyers profiled in this book are not the only ones that are dishonest, Slayton implies, just those stupid enough to get caught.

9 Martin Seligman, *Authentic Happiness* (New York: Free Press, 2002) at 178 cited in *supra* note 2 at 7.

10 *Ibid.*

11 *Supra* note 2 at 238. *Report of the Review of the Regulatory Framework for Legal Services in England and Wales*, (Legal Services Review, December, 2004), Legal Services Review online: <<http://www.legal-services-review.org.uk/content/report/index.htm>>.

12 *Supra* note 2 at 239.