

BOOK REVIEW

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

BY PHILIP SLAYTON

Reviewed By Katrina Edgerton-McGhan*

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I am having lunch with a friend over the workweek and wander by a newsstand in Calgary's TD Square. The controversial July 26, 2007 issue of *Maclean's* magazine which features an interview with Philip Slayton, author of *Lawyers Gone Bad*¹, is front and centre at the newsstand. I pause the lunch date to hustle in and purchase the magazine. The newsstand saleswomen start to laugh, and one says, "so which one of you is the rat.... er, lawyer?" My friend points at me and I furiously attempt to avoid eye contact with anyone. "Which one are you?" asks the other saleswoman as they lean over the magazine. They have three options to choose from underneath the headline: "I pad my bills"; "I take bribes"; or "I sleep with my clients".

"She's that one, isn't she?" asks the saleswoman of my friend, stabbing her finger at the cover. "Or is she this one?" My friend laughs awkwardly, the saleswomen laugh hysterically as I continue to stare at the ground.

I did not start reading this book without lingering irritation from the above experience. Nor did I start reading it without pre-existing doubt as to its quality given the author's outrageously smug *Maclean's* interview (Journalist: Did you pad your bills? Mr. Slayton: I was part of the legal culture of the time and I did what it demanded".² As Warren Kinsella so accurately puts it, "Uh huh. Pot, Kettle, Black."³). However, even if I had approached this book welcomingly, I would still have been seriously disappointed by the time I was halfway through the first chapter.

Lawyers Gone Bad opens by hypothesizing why lawyers Go Bad. The book then tells the story of several lawyers in the last few decades who have Gone Bad, and concludes with a short critique the self-regulation of the profession and lack of access to justice.

The problems with this book are clear from the first chapter. Stylistically, it is poorly organized and disjointed. Substantively, it is rife with sensationalist exaggeration that borders

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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> [*Lawyers are Rats*].

2 *Ibid.*

3 Warren Kinsella. "The Rats Fight Back: Lawyers now have a Chance to Change Perceptions about their Profession", Editorial, *National Post* (16 August 2007), online: Nationalpost.com <<http://www.nationalpost.com/opinion/columnists/story.html?id=bf0717d-eabe-4716-94da-aa2e34c9d8c4&k=4220&p=1>>.

on misrepresentation. It poses no meaningful questions, nor does it provide any meaningful answers. Moreover, if the lurid details are removed, the book is boring. Chapter after chapter Mr. Slayton tells essentially the same story: a lawyer who oftentimes has mental health and substance abuse problems does something very Bad, is caught, disbarred, and often imprisoned.

In the first chapter, Mr. Slayton offers many reasons as to why lawyers Go Bad: greed, sex, status, power, psychopathy, learned pessimism, arrogance, and the symbiotic lawyer-client relationship. He lambastes self-regulation, limited liability partnerships, billable hours, and the rise of the national firm as general problems with the legal profession. These reasons are then loosely connected to why lawyers Go Bad. These points are neither well developed nor well argued.

Mr. Slayton writes that he often defended the persons he now exposes, yet the stories he tells evidence a lack of concern for these same people. He speaks of our fascination with downfall, failure and scandal, and then panders to this by portraying that failure and scandal in the most salacious way possible. For example, when speaking about Martin Pilzmaker, a lawyer implicated in fraudulent billing and immigration practices, he described Mr. Pilzmaker's completion of suicide as follows: "Pilzmaker, a flashy outsider, killed himself in a cheap hotel room shortly after he had been disbarred and just before his trial on multiple criminal charges was about to proceed."⁴ When Richard Shead, a tax lawyer implicated in a mortgage fraud scheme, told Mr. Slayton that he did not want to participate in the book out of privacy concerns for his wife and family, Slayton published the conversation along with a follow-up email that Mr. Shead sent, again requesting privacy for the sake of his children. Mr. Shead was in fact imprisoned and disbarred, making one wonder what objective is met by Slayton's further publicity of the matter.

If the salaciousness and lack of concern were not enough to make this book untenable, Mr. Slayton at times manipulates the facts to prove points about the failings of the legal system. A good illustration of this is his use of the *Strother*⁵ case. Mr. Slayton selected the *Strother* case to illustrate that tax shelters "... deprive ... the public purse of tax revenue and raise ... fundamental questions about the responsibilities of lawyers and accountants to the society in which they live, work, and play."⁶ The *Strother* case, aside from the fact that the dispute was in the context of tax shelter sales, had no substantive comment on the propriety or impropriety of tax shelters. It was about breach of fiduciary duty in the context of retainers. Its use to illustrate his point about tax shelters is inappropriate.

Lawyers Gone Bad does raise current issues about the conditions of lawyers working in private practice. Mental health concerns, substance use/abuse, long hours, billable hours targets, and the feelings of inability to control one's own life are real concerns for lawyers in private practice. Slayton, however, does not confine these concerns to private practice in predominantly urban contexts. Instead, the book seems to presume that all lawyers practice in that fashion and face like challenges. The non-lawyer reading this book is exposed to a small segment of lawyers who are treated as if they comprise the entirety of the legal profession.

Mr. Slayton also criticizes the self-regulating nature of the profession. What a reader can infer from the book, however, is that lawyers *Gone Bad* are faced with serious consequences. In each case, with the exception of *Strothers*, the lawyers were met with harsh consequences such as disbarment by the law society and prison time. If Slayton truly wrote *Lawyers Gone Bad* to prove the inadequacy of self-regulation, he proved just the opposite. If he wrote it for

4 *Lawyers Gone Bad*, *supra*, note 1 at 25.

5 At SCC: *Strother v. 3464920 Canada Inc.*, 2007 SCC 24; At BCCA: *3464920 Canada Inc. v Strother* 2005 BCCA 35 add'l reasons *3464920 Canada Inc. v Strother*, 2005 BCCA 385; At BCSC: *3464920 Canada Inc. v Strother*, 2002 BCSC 1179

6 *Lawyers Gone Bad*, *supra*, note 1 at 85.

some other purpose, such as to explain why some (although he does not present it as “some”) lawyers Go Bad, he provided little insight on that point.

Why any member of a given profession Goes Bad is a complex question with answers that are often both individualized and systemic. In this book, some of the subjects are profoundly mentally ill, as was the case with Mr. Pilzmaker. Some seem to be incompetent and make costly mistakes, such as Martin Warrick, a conveyancing lawyer who was disbarred after being implicated in real estate fraud. Sometimes it seems to be a combination of many things. It is likely that one cannot ever provide a cohesive explanation for why members of a profession Go Bad, but this does not dissuade Mr. Slayton from attempting, and failing, to achieve this end. Perhaps the one thing we can take from this book, despite Mr. Slayton’s intentions to the contrary, is that the machinery of self-regulation when lawyers Go Bad is in sound working order.

Lawyers Gone Bad is a bad book that did not deserve the publicity that it received. Members of the legal profession, myself included, do not deserve the humiliation and scorn as a result of Mr. Slayton’s anecdotes of a few lawyers who have shirked their duty to the public.