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LURE
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LAW



WHY PEOPLE BECOME LAWYERS,
AND WHAT
THE PROFESSION DOES TO THEM

RICHARD W. MOLL

THE LURE
THE LAW

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PENGUIN BOOKS

THE LURE OF THE LAW

Richard W. Moll, a former Dean of Admissions at several of the nation's most selective colleges, is the author of *Playing the Selective College Admissions Game* and *The Public Ivys: A Guide to America's Best Public Undergraduate Colleges and Universities*. Moll has also written for *Harp-er's*, *Saturday Review*, *The College Board Review*, *The New York Times*, *The Washington Post*, etc. *The Lure of the Law: Why People Become Law-ymers, and What the Profession Does to Them* was written after Richard Moll was hired by a major New York law firm to help change its conservative image. Moll lectures at high schools, colleges and universities, Bar Associations, and academic seminars throughout the nation.

**This book is dedicated to the memory of
C. Anthony Friedrich, a twenty-eight-year-old Harvard
Law alumnus and second-year associate with
Arnold & Porter of Washington, D.C. He was
killed on October 21, 1989, in an airplane crash
in Honduras while completing a pro bono fact-finding
mission for the International Human Rights
Law Group.**

**May Tony Friedrich's conscience and courage
live with those in the law.**

PREFACE

This book is an anecdotal, nonscientific survey of who is lured to the law and why, and what attorneys think of their quality of life once in the profession. A few observers, close to the law or to lawyers, have also been invited to comment.

Personal—sometimes very personal—profiles comprise the bulk of the book. The people who appear represent a variety of specializations, styles, ages, and positions but are, obviously, an incomplete representation of everyone in the law. Because basic themes keep reemerging from very different spokespeople, however, I am satisfied that the “mix” gives us the overall view that would have emerged from a larger sampling, had I drawn on an even wider range of geographically and sociologically varied sources. There is a great deal of attention paid to New York City and “the large firm” because this combination is so often cited as the goal by top law students nationwide. To provide balance to this big-city tilt, a “pod” of lawyers from Maine is also given scrutiny, although a national spectrum of place and size is represented overall.

Some of the subjects profiled use their real names—a few of them quite well known—while others have been given pseudonyms at their request. In all cases, conversations are authentic, with alterations made for brevity or clarity.

I can only hope that I have quoted and/or represented these serious, intriguing, often colorful individuals and their opinions about lawyers and the law—usually deeply felt—adequately and fairly.

Finally, let me express thanks to the partners, associates, and staff of one “Wall Street law firm” for my introduction to and intrigue with what lawyers do, and what the law does to lawyers.

THE LURE

THE LAW

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CONTENTS

PREFACE xi

I. THE IMAGE 1

II. STEPPING IN:
The Lure of Law School 21

Betty Marvel 29
Natalie Smothers 32
Michael and Meg Barton 34
Rockwell Pearce 37
Ronald B. Starck 39
John Wu 42

III. WATCHING:
A View of Lawyers from the Outside 45

Nancy Hart 47
Dr. Karl Maclaren and Dr. Donald Loren 49
Lisa Tessler 51
Jeff Levy 53

IV. IN STEP:
A View of Lawyers by Lawyers 57

Thomas H. Allen 59
Lesley Martin 65
Robert C. Johnson, Jr. 70
Gerry Spence 77
Barbara E. Smithe 81
Peter Webster 85

CONTENTS

Gregory S. Fehribach	89
John Ellison	91
Pamela Ann Rymer	98
Peter S. Britell	101
Russ Li	106
Richard Reyes	110
Elizabeth Sternberg	114
Norm Sherman	121
Mark Saunders	124
Simon Sidamon-Eristoff	128
H. James Thomas	131
Robert D. Raven	134
Chandler Cummins	140
Alyson Singer	144
Christopher Lane	149
Steve Hudspeth	152
Frederick A. O. Schwarz, Jr.	156

V. STEPPING OUT:

<i>A View of Lawyers by Nonpracticing Lawyers</i>	163
---	-----

Steve Yandle	165
David Bottoms	168
Marilyn Quayle	173
Ed Woodsum	176
Dermot Meagher	181
Richard Thornburgh	185
Charles Baker	190
Thomas Karsten	194
Patrick Mulhearn	200
Ed Koch	205
Harry Palmer	210

VI. CONCLUSION	213
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ONE

THE IMAGE

■ ■ ■
The image of "the law" . . . Is the profession under a cloud? . . . Has it always been? . . . Is the poor image justified? . . . What are attorneys doing to improve it?

Considering the pervasive negative views of "the law," why do so many people want to be attorneys?

■

AT INTERMISSION OF A MODERN DANCE CONCERT IN Berkeley, I started talking with the thirtyish woman seated next to me. She appeared both professional and athletic.

"Yes, you guessed it, I am a sometime marathoner . . . that is, when there is time. I'm a surgeon first, a runner second. But there is more to running for me than staying in shape. It is my primary source of entertainment. For example, there is a fellow about my age whom I almost always see running on weekends—we seem to chart about the same course at about the same time in the Embarcadero area of San Francisco. I've noticed him because, one, he's a sensational-looking guy, and, two, I can almost feel his fury when I pass him, time after time. Last Sunday, with my curiosity getting the best of me, I decided to brazenly pull up alongside him and say hello. He wasn't certain he wanted to talk, but he recognized me immediately. He grunted a little and then stared straight ahead. He was so obnoxious that I couldn't resist telling him what I had been thinking over the weeks of watching his reaction to 'the competition.'

"'You must be a lawyer,' I said as softly and empathetically as possible. '*Better* than that: I was just made partner at my firm,' he snapped back.

"I *knew* it!—and I sped on by him as he cursed. The guy just couldn't bear to lose. I knew he had to be a lawyer . . ."

The lady hardly speaks just for herself. *Lawyer* in America has come to connote egoism and rabid competitiveness coupled with greed, a seeming detachment from issues of right and wrong, and yes—one who is very bright and hardworking but, so often, dull.

A new phenomenon? No. Theodore Dreiser said in his 1912 novel *The Financier*: "Lawyers in the main were intellectual mercenaries to be bought and sold in any cause. . . . Life was at best a dark, inhuman, unkind unsympathetic struggle built on cruelties . . . and lawyers were the most despicable representatives of the whole unsatisfactory mess."

Shakespeare talked about the dark side of lawyers much ear-



lier. In *King Henry VI, Part II*: "The first thing we do, let's kill all the lawyers." A professor added a postscript in sending me this quote: "As so often, Shakespeare stated a verity that has lasted through the centuries." Indeed, the line has even been quoted in *Peanuts*.

(. . . *So why do so many responsible, respectable, thinking people want to be lawyers? . . .*)

Jokes mocking lawyers are in vogue:

Judge to accused: "Would you like a lawyer to represent you?"

Accused: "No thanks, your honor. I've decided to tell the truth."

Why are they starting to use lawyers instead of rats for laboratory experiments? First, there are more of them. And second, there are some things that rats just won't do.

But even joking about lawyers is not new. H. L. Mencken quipped, "A peasant between two lawyers is like a fish between two cats."

In 1987 Russell Baker, columnist-humorist of *The New York Times*, lamented the conservative religionist Jerry Falwell's going after *Hustler* magazine's Larry Flynt after Flynt's crude savaging of the Reverend and his mother. Falwell's mandate to his lawyer: "Get him!"

I don't say America would be better off Red than rolling on the floor with laughter at outhouse incest, but it's a close call. . . . On the other hand, neither is it inspirational to see Mr. Falwell seeking legal redress in the form of cash. . . . This passion for converting all problems in human relations into lawsuits is another illustration of decay in the American character. . . . Seeing Mr. Flynt's scabrous outhouse humor, a man of sound character has two choices. He can treat Mr. Flynt as a figure beneath contempt, and ignore him. Or, he can horsewhip him through the streets. The horsewhipping of editors by outraged citizens was a fine American tradition in the 19th century, and ought to be revived today to save the country from the blight of lawsuits. . . . More horsewhips, I say. Fewer lawyers.



The lawyers, we think, are in waiting to commandeer *any* dispute, worthy or not. And at a very high price . . .

(. . . *So why do so many responsible, respectable, thinking people want to be lawyers? . . .*)

A few years ago, this writer, with a background in image development and public relations related to college and university admissions, was invited to join "New York's oldest law firm" to analyze how its conservative reputation might be relaxed and to revitalize its recruitment of new lawyers from the top law schools. "A good job description and an enlightened, quite overdue concept," agreed many who had observed the prominent firm over the years. But alas, the firm just couldn't get off the dime with the new campaign. Why? The partners—each knowing the answer to all problems, well beyond the law—could not agree among themselves if the image *really* needed alteration (it seems the decision to hire an outsider was made by a skillful team of "young turk" partners without full support of most of the firm's old boys), nor what the altered image might ideally be. More important, there were such deep-seated, time-worn, and time-consuming rivalries within the firm among departments, not to mention among individual lawyers, that what little time was spent talking with one another rarely let them get beyond the tree-issues to look at the forest. The scarcest commodity within the firm was, quite simply, time. As soon as their suburban trains pulled into Manhattan, the lawyers were fully absorbed in their daylong private telephone orgies regarding the big cases; seemingly moments later, the evening trains were ready to pull out of the stations again, and the mundane talk of firm and individual welfare was postponed until another day. Intertwined in it all was the frustration (and consequent diminished effectiveness) of the young associates, yearning to be led and trained, and the obvious sacrifice of human potential—the lack of time to develop other interests and talents, time to care for family and friends, time to contribute to the common good beyond law—a sacrifice known to almost all the attorneys, old or young, corporate lawyers or litigators, millionaires or just the well-to-do working up. After some months of observing the dark-suited, paisley-tied (male and female variety), professional, grown-up mice on the treadmill, I whispered to myself . . .



(. . . *So why do so many responsible, respectable, thinking people want to be lawyers? . . .*)

Indeed, some *inside* the law question the honor of it all. A few grow superimaginative to make their embittered point. Flo-rynce Kennedy, a lawyer and feminist, explains her "Whorehouse Theory of Law":

Ours is a prostitute society. The system of justice, and most especially the legal profession, is a whorehouse serving those best able to afford the luxuries of justice offered to preferred customers. The lawyer, in these terms, is analogous to a prostitute. The difference between the two is simple. The prostitute is honest—the buck is her aim. The lawyer is dishonest—he claims that justice, service to mankind is his primary purpose. The lawyer's deception of the people springs from his actual money-making role; he represents the client who puts the highest fee on the table. . . . As a law student, he is taught not only to park his humanity, but to think only in terms of money, power, and "the law." It follows that many lawyers wish to be in the pay of the business and government "houses." That is their highest aim—to be in a house where the richest johns come. . . . The more delinquent the business or government client, the greater the employment opportunity for lawyers. Some of the two-bit-whore lawyers have spent lives of great disappointment because they have not been recruited and raised to "call girl" status in the major Wall Street firm or the MICE—Military-Industrial-Complex-Establishments. . . . People ask me whether, as a lawyer, I am not, in my own terms, a whore (especially since I'm a woman). The answer is, "of course." I have described my practice as a hustle ever since I discovered that the practice of law had much more to do with money-making than justice. I try to tell it like it is. But whether the hustler in a small, private practice tells it straight or not, this lawyer tends to be a less virulent prostitute than the one at a major law firm that services the MICE. . . . Since the role of almost every lawyer is to perpetuate oppression in a corrupt, unjust Society of Whorehouses, it seems to leave very little alternative to the law students or young practitioners. They don't want to be whores, and they can't survive as virgins. . . .



(. . . So why do so many responsible, respectable, thinking people want to be lawyers? . . .)

There are plenty of those who think Florynce Kennedy is on target in describing lawyers and the law, but *The National Law Journal*, in an August 1986 poll entitled "What America Really Thinks About Lawyers," reported a more moderate, though hardly positive, view among the general public:

On the subject of which professionals, among 10 choices, deserve the most respect, only 5 percent in the sample chose lawyers. Members of the clergy scored highest in this category (30 percent), followed by doctors (28 percent) and teachers (19 percent). . . . Nevertheless, when the respondents were asked which profession they would recommend to a son or daughter, law was cited by 12 percent, ahead of teaching (8 percent) and the clergy (3 percent), but medicine (24 percent) led all responses. . . . Responses to "Of the following phrases, which most closely represents your view of the most negative aspect of lawyers?": they are too interested in money (32%), they manipulate the legal system without any concern for right or wrong (22%), they file too many unnecessary lawsuits (20%), they are too interested in representing corporations, not people (12%), they are just "hired guns" (8%) (and "don't know," 6%).

There is a history to all this. The classicist Lionel Casson says that although life without lawyers may seem inconceivable,

. . . It is clear in records going back to before 1500 B.C., and for centuries thereafter in Mesopotamia and Egypt, that there was no such thing as a lawyer. Parties to disputes had to plead their own cases. The courtroom was generally the yard of a temple. . . . People happily got along without lawyers right down to the middle of the fifth century B.C. Then, in the city of Athens, the seeds of fateful change were sown. It happened when learned men, interested in higher education, introduced a new subject into the curriculum. It was called oratory, and dealt with, among other things, logic and the art of persuasion. . . . In the suits that Demosthenes brought against his trustees, suits in which he represented himself, he was, no question about it, a lawyer in



our sense of the term. . . . The final step to full-fledged professional lawyering did not come about, though, until Rome moved to the forefront of history. Law was Rome's forte, even as literature was Greece's. . . . During the second century B.C., the vital step was taken: in certain circumstances an *advocatus* was allowed to speak on behalf of his client in court. By the end of the first century B.C. they were doing this so regularly that they now were called *causidici* (speakers of cases). A professional lawyer class, which performed a gamut of services for clients and represented them in court as well, had come into being. . . . But lo, the *causidicus* soon earned cynical distrust in Rome: "The most saleable item in the public market is lawyers' crookedness," the historian Tacitus wrote. "Pretend you purposely murdered your mother; they'll promise their extensive special delvings in the law will get you off—if they think you have money," said another contemporary. And from a satirist, "What does a man need to be a lawyer?—Cheating, lying, brass, shouting and shoving." The feeling that lawyers could buy their verdicts instead of winning them was widespread enough for Martial to quip to someone who was making plans to go to court to contest repayment of a loan: "With a judge to pay off and a lawyer to pay, Settle the debt's my advice—much cheaper that way."

Alas, it seems, the raw image of lawyering is hundreds and hundreds of years old, not born yesterday.

(. . . So why do so many responsible, respectable, thinking people want to be lawyers? . . .)

Myron Moskowitz, a rather outspoken professor of law and a habitual community servant in California, feels the pendulum of the lawyers' image swings back and forth in reaction to unpredictable current events. It is even positive now and then. In a paper presented to "Introduction to Law" classes in the San Francisco area, he says:

Back in the mid-1960s, when I began my career in the law, lawyers were generally held in rather high esteem. There were many lawyers in the forefront of the civil rights movement, the consumer rights movement, and the antipoverty program. Law was seen as a noble profession, and idealistic young people