Introduction

Question: How many lawyer jokes are there?
Answer: Only three. The balance are documented case histories.¹

Few who are exposed to American media and popular culture of recent decades will have missed the eruption of a great frenzy of joking about lawyers. The profusion of lawyer jokes has even inspired “meta-jokes” that play with the question of their descriptiveness and provocativeness. In late 1997, Chief Justice William Rehnquist, speaking at the dedication of a new building at the University of Virginia Law School, began by noting the presence of both lawyers and nonlawyers:

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.²

From ancient Greece and the New Testament to our own day, lawyers have long been objects of derision.³ From time to time, attacks on lawyers have intensified and entered the political arena. In early modern England, lawyers were condemned for avarice and greed, for stimulating unneeded litigation and then prolonging it. Historian E. W. Ives reports lawyers were despised for their willingness to wrench the law to serve their causes, but “the most frequently heard of all the charges against the lawyers” was their partiality to the rich. He quotes an attack made in 1583: “The lawyers . . . handle poor men’s matters coldly, they execute justice partially, & they receive bribes greedily, so that justice is perverted, the poor beggared, and many a good man in[j]ured thereby. They respect the persons and not the causes; money, not the poor; rewards and not conscience.”⁴ As lawyers outstripped the clergy in influence, they became the subject of “ferocious satirical
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abuse," eventually occupying the “role which in earlier literature had been filled by monks, friars, usurers and the diabolical Jesuits.”

From the late sixteenth century “the numbers, influence, and wealth of common lawyers and the volume of litigation were all growing very rapidly” and “both the vehemence and volume of recorded anti-lawyer comment” increased steadily. By the mid-seventeenth century, litigation was widely viewed as a social evil, attributable to the presence of “multitudes of . . . irresponsible lawyers.”

Lawyers were viewed as parasites who consumed rather than promoted the nation’s wealth. The presence of lawyers in large numbers evidenced the severity of the nation’s sickness. Schemes for regulation of the profession competed with cries for outright abolition.

In postrevolutionary America, lawyers were again the targets of fierce contempt. “There existed a violent universal prejudice against the legal profession as a class” and its members “were denounced as banditti, as blood-suckers, as pick-pockets, as wind-bags, as smooth-tongued rogues. . . . The mere sight of a lawyer . . . was enough to call forth an oath.” In March 1789, two months before the Constitutional Convention convened in Philadelphia, future president John Quincy

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1. Blessings of Brittain—or A Flight of Lawyers (BM 12862. Williams, 1817). A swarm of legal dignitaries, judges, barristers and clerks descends on Westminster Hall, the seat of the higher courts, on the First Day of Term.
Adams, then a Harvard senior, addressed a college "conference": "The profession of the Law labours under the heavy weight of popular indignation; . . . it is upbraided as the original cause of all the evils with which the Commonwealth is distressed." Later that year he wrote to his mother, Abigail: "The popular odium which has been excited against the practitioners in this Commonwealth prevails to so great a degree that the most innocent and irreproachable life cannot guard a lawyer against the hatred of his fellow citizens."12

We live in another epoch of heightened antilawyerism. In terms of violence and vituperation, contemporary attacks on lawyers are mild in comparison to earlier sieges. But the recurrence of many of the same grievances and complaints suggests that the current eruption is neither random nor unique. Episodes of elevated antilawyerism are never entirely new; they draw on old themes and employ old images and tropes. But they are never just reruns, for such episodes are not just about lawyers: they are about people's responses to the distinct features of a particular legal system and the wider society that surrounds it.

A future historian looking back at our time may find one of the distinctive and peculiar features of late twentieth-century America to be the consternation about law that gripped much of American society in the 1980s and persisted through the turn of the century. America, it was endlessly repeated, has too much law, too many lawyers, too much litigation, and an obsessively contentious population that sue at the drop of a hat. "Everyone knows" that the United States is the most litigious nation on earth, indeed in human history, and many believe that excessive resort to law marks America's moral decline and entails enormous costs that portend economic disaster in an increasingly competitive world.

These images of law's maladies and afflictions coexist with a deep-seated belief that law is a wonderful thing. In the abstract, law is celebrated: the rule of law is regarded as a defining, essential, and valuable feature of our society. As an everyday presence, law generally meets a commonsensical acceptance, qualified by a sanguine recognition of its shortcomings. Our legal culture manages to contain multiple and conflicting visions of law. It is the cornerstone of our commonwealth; it is a costly, erratic, but indispensable resource for dealing with many workaday problems; it is a malign and dangerous presence.13 By legal culture I refer to the shared, overlapping, and sometimes conflicting beliefs, expectations, and aspirations that Americans hold about law, lawyers, and litigation. The legal culture is not a fixed set of beliefs but, like literary or culinary culture, a shared repertoire from which we fashion responses to our lives and our society.

In this book I explore American legal culture by probing some of its less examined manifestations, especially the great stream of jokes about lawyers that has overflowed in recent years. The jokes are juxtaposed with other outcroppings of legal culture—public opinion as expressed in surveys; the discourse about law among political, media, and business elites; and the portrayal of law and lawyers in the media. These are different soundings of the same submerged complex of legal culture that undergirds American institutions.
To understand public images and perceptions of lawyers, we have to consider not only the flesh and blood lawyers that populate the world but the virtual lawyers that appear in television dramas, in news reports and punditry, in novels, in movies, in advertisements, and as the butt of jokes. Real and imaginary lawyers interact—like the people and the toons in *Who Framed Roger Rabbit?* (1988)—and sometimes it is hard to tell them apart. The fusion of real and imaginary lawyers is not new, but we have had a great increase in exposure to both.

A convenient overall measure of feelings about lawyers is provided by changing public response to a Gallup poll inquiry asking people to rate the honesty and ethical standards of lawyers. In 1976, 27 percent rated lawyers low or very low. By 1994, this had risen to 47 percent. In 1976 public opinion about lawyers’ ethics was bell-shaped, with about as many rating them above average as below average. But by 1994, the 47 percent who rated them poorly were balanced by only 17 percent who thought their ethics better than average. Most of the change occurred after 1992.

In reading the polls’ story of declining regard for lawyers, we should be wary of assuming that opinion about the legal profession has fallen from its normal plane of respect to a historic low. The “historic low” reading comports with the scenario favored by many lawyers, including eminent judges, in which the profession has fallen from an earlier state of grace into an abject and debased condition. In this view, the proliferation of hostile lawyer jokes is a mark of the decline in lawyers’ professionalism. I shall argue that this view is mistaken. For now, just recall that public estimation of lawyers was far less favorable at earlier points in American history. In the years following the Revolution, during the Jacksonian era, and in the years after the rise of industrialism, there were strong currents of hostility to lawyers that have not been outdone by contemporary lawyer bashing.

What is singular about the current sense of decline is the high elevation from which descent is measured. The period around 1960 may well have been the historic high point of public regard for law and lawyers. It was certainly an era of favorable portrayals by the media. In movies such as *Witness for the Prosecution* (1957), *Anatomy of a Murder* (1959), *Compulsion* (1959), *Inherit the Wind* (1960), *Judgment at Nuremberg* (1961), and *To Kill a Mockingbird* (1962), and on television with *The Defenders* (1961–65) and *Perry Mason* (1966–72), lawyers ranged from the benign to the heroic. Steven Stark regards the lawyers portrayed in shows like *The Defenders* and *Owen Marshall* (1971–74) as “television’s great benevolent authority figures.” To Anthony Chase, the portrayals in films like *To Kill a Mockingbird* represent “a complete integration of the virtuous-lawyer archetype in popular culture—an elaborated image unprecedented . . . [in] American mass cultural iconography.” In that film, and in the massively influential novel on which it was based, Atticus Finch, a lawyer in a small Alabama town during the 1930s, appointed to defend a poor black man accused of raping a white woman, courageously exposes himself to personal and professional risk to foil a lynching and to resist intimidation. Marshaling all his professional skill for this uphill battle, Finch demolishes
the prosecution's case, but succeeds only in prolonging the jury's deliberation beyond the perfunctory. The jury convicts his client, who is killed trying to flee.

The tale of Atticus Finch's struggle has been a massive presence in American popular culture. For two generations, it has been one of the most frequently required books in American secondary schools. A 1991 survey of lifetime reading habits found that among the books mentioned as having "made a difference" in respondents' lives, Harper Lee's *To Kill a Mockingbird* ranked second only to the Bible. Twenty the figure of its lawyer protagonist, Atticus Finch, resonates at many locations on the cultural spectrum. When, in 2003, the American Film Institute generated a list of the "top 100 movie heroes," Atticus was number one, outranking Indiana Jones, James Bond, Rick Blaine (the Humphrey Bogart character in *Casablanca*), and Rocky Balboa among others.

No figure in contemporary popular culture, with the possible exception of Abraham Lincoln, rivals Atticus Finch as an icon of the good lawyer. Within the profession, too, his story carries a powerful symbolic charge. For law and film scholar Michael Asimow, Atticus Finch is the "patron saint" of all lawyers who rise above exclusive concern with the bottom line. "He is a mythic character. He is everything we lawyers wish we were and hope we will become." For decades, *To Kill a Mockingbird* has been the site of pitched battles among contending views of lawyerly virtue.

In the real world of the 1960s, the civil rights struggle and its many progeny inspired many young lawyers to view the law as a shining sword with which to vanquish the long-festering problems of exclusion, poverty, and oppression. Benign and inventive courts could thread their way to a solution of society's most intractable problems with the help of energetic, public-spirited lawyers representing the silent and powerless. Legal services for the poor burgeoned, and the ideal of lawyers as valiant and dedicated warriors for justice ramified into environmental law, consumer law, and other "public interest" salients.

Lawyers were riding a wave of favorable regard of the whole panoply of social institutions. As that wave broke up in the course of Vietnam War protests and the challenge to established authority in the early 1970s, scouring denunciations of the legitimacy and effectiveness of law gained prominence. In 1971 the editor of *The Rule of Law* discerned "a full scale assault on legal and political authority" and described as commonplace the view that "law in the United States is in bad shape both in theory and in practice." The same year the editor of another collection reported with evident satisfaction wide agreement that "the legal system . . . is collapsing and can no longer be saved in its present form," and an establishment bar group sponsored an anguished examination of "Is Law Dead?"

The "death of law" was short lived. The Watergate crisis (1972–74) accelerated the decline of public confidence in elites and, in particular, discredited lawyers who figured so prominently among the Watergate villains, but at the same time it revived allegiance to the rule of law. The resolution of the crisis inspired appreciation that "the system worked." Criticism of legal institutions for failure to serve
the public interest was taken up by a section of the legal establishment. The “public interest law” and “access to justice” movements that flourished during the 1970s sought to give voice to unrepresented groups, to enlarge the modalities for securing justice, and to inspire lawyers to embrace these neglected responsibilities.\textsuperscript{27}

A decade of attacks on lawyers for abuse of ordinary clients, self-serving alliances with the powerful, and failure to implement equal justice culminated in a remarkable 1978 address by President Jimmy Carter, who took the occasion of the one hundredth anniversary dinner of the Los Angeles County Bar Association to deliver a critique of the legal system.\textsuperscript{28} Beginning with an excerpt from \textit{Bleak House}, President Carter excoriated “excessive litigation and legal featherbedding” and chastised lawyers for aggravating rather than resolving conflict. These familiar complaints were interwoven with another set of themes that have been notably absent from recent political rhetoric about the legal system. President Carter declared that legal services were, more than any resource in our society, “wastefully [and] unfairly distributed.” Lawyers were particularly to blame for failing to make justice “blind to rank, power, and position.” He deplored that “lawyers of great influence and prestige led the fight against civil rights and economic justice.” Devoted to the service of dominant groups, lawyers had failed to discharge their “heavy obligation to serve the true ends of justice.” In short, lawyers had fallen woefully short of their calling to be votaries of justice in an imperfect world. Carter called on them to embrace the theme of “Access to Justice,” which was the official theme of the American Bar Association for 1978. Although the tones were critical, the song was one of optimism and hope: lawyers’ rededication to their high calling combined with institutional redesign could vindicate the promise of connecting law to the pursuit of a just society.\textsuperscript{29} Although the president’s observations did not elicit a warm reception from the bar or the media, his criticism of the bar met with general public approval.\textsuperscript{30}

A similar “public justice” critique infused the work of the Kutak Commission, set up by the American Bar Association in 1977, in the wake of Watergate, to revise the rules of ethical conduct for lawyers.\textsuperscript{31} The major theme of the new Model Rules proposed by the commission was enlargement of the public duties of lawyers and limitation of their license for adversary combat.\textsuperscript{32} The commission sought to accentuate the duties of lawyers that transcended their responsibilities to clients—for example, by limiting confidentiality to enable lawyers to blow the whistle on client wrongdoing, by imposing a duty of fairness in negotiations by requiring disclosure of material facts, and by mandating that lawyers devote a portion of their time to pro bono publico work.\textsuperscript{33} The commission’s proposals aroused fierce opposition from various sectors of the bar and were vitiates at a series of ABA meetings in 1982 and 1983.\textsuperscript{34}

In the late 1970s, at the time that Carter and the Kutak Commission were calling the profession to account for its failure to pursue justice for the public, the first murmurs were heard of what was to become a great roar of denunciation of the legal system.\textsuperscript{35} Eminent judges, lawyers, and academics opined that American
society was suffering from an excess of law in the form of “legal pollution” or a “litigation explosion.” The popular press echoed this concern, reporting that “Americans in all walks of life are being buried under an avalanche of lawsuits.”

Led by the chief justice of the United States, important sections of the legal elite began to express their unhappiness with the enlargement of the legal system and the multiplication of rights. Chief Justice Warren Burger criticized lawyers for commercialism, for incompetence, and for excessive adversariness that produced court congestion and runaway litigation. He mounted a broad attack aimed at curtailing litigation and replacing adversarial confrontation with a “better way.”

By the mid-1980s, the discourse about lawyers and civil justice in America was dominated by what I call the “jaundiced view.” Our civil justice system was widely condemned as pathological and destructive, producing untold harm. A series of factoids or macro-anecdotes about litigation became the received wisdom: America is the most litigious society in the course of all human history; Americans sue at the drop of a hat; the courts are brimming over with frivolous lawsuits; resort to courts is a first rather than a last resort; runaway juries make capricious awards to undeserving claimants; immense punitive damage awards are routine; litigation is undermining our ability to compete economically.

Although a litigious populace and activist judges were also blamed, lawyers, as the promoters, beneficiaries, and protectors of this pathological system, held pride of place among the culprits responsible.

**The Enlargement and Withdrawal of the Legal World**

Both the proliferation and prominence of lawyer jokes and the emergence of the jaundiced view were responses to a massive transformation of the legal system. In the course of a generation, there was a dramatic change in scale of many aspects of the legal world: the amount and complexity of legal regulation; the frequency of litigation; the amount and tenor of authoritative legal material; the number, coordination, and productivity of lawyers; the number of legal actors and the resources they devoted to legal activity; the amount of information about law and the velocity with which it circulated.

These changes in the legal world in turn reflected changes in the surrounding economy and society. Compared to 1960, the American population in the 1980s was larger, older, more affluent, more educated, and more diverse. It enjoyed a higher level of social services, higher life expectancy, and higher expectations of institutional performance. At the same time, it had much less confidence in government, business, and other major institutions. The economy expanded. More Americans worked. There was a pronounced shift away from the making of goods to the providing of services. In particular, there was an immense multiplication of financial transactions. The economy was internationalized.

The number of lawyers grew rapidly. Throughout the middle of the twentieth century, the number of lawyers per capita had remained roughly the same—and roughly the same as the number of physicians. But starting in the 1960s the
proportion of lawyers in the population increased steeply, tripling from 1965 to the end of the century and greatly outstripping the number of physicians.\textsuperscript{47} Society’s spending on law increased markedly. The portion of the national income and product derived from legal services roughly doubled from 1960 to 1985.\textsuperscript{48}

Not only were there more lawyers, there was more law. The amount of law increased exponentially. There were more federal regulatory statutes, more agencies, more staff, more enforcement expenditures, and more rules.\textsuperscript{49} The body of authoritative legal material grew immensely as did the amount of commentary that glosses it.\textsuperscript{50} After a long period of stability in the legal workplace, a rapid succession of new technologies—photoreproduction, computerization, on-line data services, overnight delivery services, electronic mail, and fax machines—multiplied the amount of information that could be assembled and manipulated by legal actors.\textsuperscript{51}

Starting around 1960, after a thirty-year period in which the rate of civil litigation in the United States was low by historic standards, the amount of litigation began to rise.\textsuperscript{52} Total civil filings in the federal courts grew from 59,284 in 1960 to 273,670 in 1985.\textsuperscript{53} Comparable figures for the state courts are not available, but a sense of the growth of state judicial activity can be gathered from the number of lawyers employed by state courts, from 7,581 in 1960 to 18,674 in 1985.\textsuperscript{54} Courts, federal and state, acquired more staff, clerks, and professional administrators.\textsuperscript{55} These larger staffs were equipped with new information technologies, which increased the “production” of these institutions even faster.

Even more significant than the quantitative growth of the law was a gradual but pronounced change in its tenor. Before World War II, American law in practice provided little remedy for have-nots against dominant groups. Lawrence Friedman described the late nineteenth-century tort system as a “system of non-compensation” in which few claims were brought and plaintiffs faced an array of doctrinal, practical, and cultural barriers to recovery.\textsuperscript{56} Studying personal injury cases in New York City over a forty-year period, Randolph Bergstrom concluded that “the injured had few reasons to think that lawsuits would offer a ready source of sustenance in 1870, less still in 1910.”\textsuperscript{57} My own review of pre-World War II disasters showed that compensation was uncertain and meager.\textsuperscript{58} Successful claims by those in subordinate positions against bosses and authorities were few and far between.

But after World War II, courts and legislatures extended legal protections and remedies for more of life’s troubles and problems to more and more people, including those who earlier were largely excluded from it—injured workers and consumers, blacks, women, the disabled, prisoners, and so on. Compensation for many of life’s troubles became routine, through social insurance (ranging from social security disability payments to federal insurance of bank deposits) and through use of the litigation system.\textsuperscript{59} Expectations of remedy and compensation rose.\textsuperscript{60} Legal representation of claimants was more available and more proficient.\textsuperscript{61} There was more “litigation up” by outsiders and clients and dependents against authorities and managers of established institutions and a corresponding shrinkage of the leeway and immunities from legal accountability of the powerful.
This enlargement of remedy was accompanied by (or some might say accomplished by) a cultural shift: the expansion and elaboration of the notion of rights. Broad sections of the public came to believe that the law would secure them remedy and vindication. Although any particular bit is contested, the general direction remains clear—rights, and remedies for their violation, continue to grow. Law has become the master wall-to-wall orderer of our social life, and lawyers, as its custodians, have become “the dominant profession in American society.”

But the other side of rights is control and accountability. Whole areas of governmental activity that were not previously thought needful of close articulation with legal principles are now subjected to judicial oversight. These include large sections of the criminal justice system, including police, prisons, and juvenile justice; and other institutions dealing with dependent clients such as schools, mental hospitals, and welfare agencies. Government entered into areas of life previously unregulated by the state (for example, in the great proliferation of environmental, health, and safety regulation) or in which regulation had not been closely linked to the application of legal principles. In the area of health care, for example, regulation of entitlement to treatment and provider compensation has proliferated. Similarly, the employment relationship has been legalized, through the welfare state’s job and income security programs and through civil rights acts and wrongful discharge litigation. Nor are our amusements exempt: much of the sports pages is devoted to reports of legal rulings and maneuvers. In each of these areas—health care, employment, sports—regulation by legal institutions inspires answering legalization by bodies within these social fields, who promulgate rules, hold hearings, and give decisions in a legal manner. As public standards penetrate into every corner of social life, the amount of private regulatory activity is multiplied rather than reduced.

The increased pervasiveness of law is reflected in popular perception of the ubiquity of law and its intrusion into areas previously immune from its impingement—for example, in stories about suits by children against their parents. A cartoon portrays an incredulous father who asks his son across the table, “You say if I make you drink your milk, you’ll sue me?” This theme presents itself seriously in the continuing controversy about the legal limitation of parental authority. Similarly, figure 2 epitomizes an uncomfortable sense that the world has been legalized—that our world of primal experience has been penetrated, permeated, colonized, and somehow diminished by a derivative and unprofitable layer of the legal. This unease—and recoil—manifests itself in many ways, from the wry reflection of these cartoons to widespread popular concern about the legal explosion, excessive litigation, and too many lawyers to recondite anxieties about the “bureaucratization of the world,” the “juridification of the social spheres,” and the “colonization of the life-world.”

Life becomes more legalized. Legal norms and institutions are invoked to regulate dealings with intimates as well as to exert leverage on remote entities. Modern society throws up more predicaments in which we find ourselves affected by
actors that we have no leverage to control and hold accountable. Modern technology increases the power of faraway actions to impinge on us. Increasingly, our transactions and disputes are not with other persons, but with corporate organizations. A greater portion of our dealings and our disputes are with remote actors. The growth of knowledge enables us to trace out these connections and establish responsibility for ramifying consequences. Education and wealth make more of us more competent in using institutions. We use law more, both in its overt forms of legislation, regulation, and litigation and in our internalized standards and our anticipation of others' expectations.

But law is not free. The law's enlarged responsiveness to the concerns of ordinary people is countered and rationed by the mounting cost of resort to an increasingly complex system. The system is more inclusive, but all parts of it have grown. During the era of expanding responsiveness to victims and outsiders, there was even greater growth in legal activity on behalf of dominant groups: litigation by businesses increased more rapidly than litigation by individuals; legal expenditures by businesses and government increased more rapidly than expenditures by

"Interesting. Have your lawyer call my lawyer."

2. Cartoon by Robert Mankoff (© The New Yorker Collection 1985, from cartoonbank.com. All rights reserved.)
Introduction

The large firm sector of the legal profession that provides services for corporations and large organizations grew and prospered more than the small firm sector that services individuals. In the past century purposeful corporate organizations (political/business/associational) displaced spontaneous “communal” or “primordial” institutions (such as families, religious fellowships, networks of transactors, neighbors, and friends) as the predominant forms of organizing human activity. More of our lives consist of dealings with these corporate actors. They are, by virtue of their scale and rationality, effective players of the legal game and enjoy enduring and cumulative advantages over individuals. More and more of the legal world is devoted to servicing them—whether we measure this by expenditures on legal services or by the total effort expended by lawyers. Increasingly the law has become an arena for routine and continuous play by organizations, an arena that individuals enter briefly in life emergencies. At the same time ordinary people as well as elites consume ever more and increasingly vivid images of the legal.

These trends entwine in curious ways. The legal system has grown prodigiously; law has become more elaborate and more visible; it occupies a larger part of the symbolic universe. The law proliferates new symbols of rights and entitlements—enlivening consciousness and heightening our expectations of vindication. At the same time it becomes more menacing and more forbiddingly difficult and costly to invoke.

The higher expectations that individuals bring to the law provoked a massive recoil. Unease among elites about the expansion of law joined with corporate interest in curtailing liability to fuel campaigns deriding law and lawyers. These intensified in the mid-1980s. Corporate spokesmen and their political allies mournfully recite the woes of a legal system in which Americans, egged on by avaricious lawyers, sue too readily, and irresponsible juries and activist judges waylay blameless businesses at enormous cost in social and economic well-being. The legal system, we are told, is “crazy” and “demented”; it has “spun out of control.”

At the same time law and lawyers suddenly became much more visible. As late as the 1970s, information about the working of legal institutions was limited in content and restricted in circulation. The operations of law firms were shrouded in confidentiality. When Erwin Smigel studied Wall Street lawyers in the late 1950s he encountered massive institutionalized reticence. Older and conservative lawyers, he reported, “thought of their organizations in much the same manner as clergymen think of the church—as an institution that should not be studied.” The world of law practice was preferredly opaque. “Talking about clients and fees just isn’t done, not even when lawyers gather among themselves.” The taboo on information about partnership agreements, finances, relations with clients, even their identity, was mirrored in bans on advertising, solicitation, and promotion. The turnabout came quite abruptly in the late 1970s as a curious by-product of the Supreme Court’s 1977 Bates decision, ruling that sweeping restrictions on lawyer

35, from cartoonbank.com.
advertising violated the First Amendment. Bates liberated lawyers to talk to the press about their practices, for they no longer feared being accused of advertising. This new access to lawyers combined with enlarged curiosity about law and lawyers to revolutionize legal journalism. Reporting about lawyers in general publications like the New York Times, the Wall Street Journal, and the news weeklies became more frequent, detailed, and intrusive. A new kind of legal trade press provided a steady diet of detailed backstage information about law firm structure, hiring policies, marketing strategies, clients, fees, and compensation. Contemporary observers noted that “law and lawyers are becoming demystified. The rites of secrecy have passed.” Not only were law firms more open, but the operations of the courts were less shrouded, and many core legal activities became more accessible. This openness is dramatized by the Freedom of Information Act, by open meeting laws, by courtroom television, and by interviewing of jurors. Scholarship, journalism, and commerce all used the new accessibility of lawyers to penetrate into previously off-limits, backstage areas of legal life. Information that just a few years earlier would have been available only to a few insiders now circulated freely.

As the old system of professional reticence collapsed many eager hands moved to feed an enlarged public appetite for material about the legal arena. Movies and television were increasingly free of the censorship that had barred unfavorable portrayals of the legal system. The wildly popular L.A. Law arrived on prime time television screens in 1986 and quickly became a barometer of public appetite for lawyer stories. A great surge of lawyer shows on TV was accompanied by the emergence of best-selling legal thrillers, beginning with Scott Turow's Presumed Innocent in 1987 and continuing with the meteoric ascent of John Grisham after the publication of The Firm in 1991.

Unlike earlier contingents of imaginary lawyers, many of those who have arrived since 1980 are both more deeply flawed and more three-dimensional. They are seen in not only the courtroom/counseling “frontstage” of lawyering, but the backstage areas as well; and their advocacy for clients is enmeshed in a setting of tactical maneuver, political constraints, and career strategy—not to mention a personal quest for fulfillment or redemption. These fictive lawyers encounter complex questions with few clear blacks and whites but many shades of gray, ethical dilemmas that often have no satisfying resolution. The lawyer is portrayed not as an unalloyed hero, but as the occupant of a crucial but morally ambiguous and precarious role.

The imaginary lawyers on television are not a likely source of the public's negative picture of lawyers. The portrayal of lawyers on television series is more favorable than the public's perceptions of actual lawyers—or even than the perceptions of lawyers themselves. Indeed, researchers suggested that the favorable TV image of attorneys, “especially their prowess in arguing cases in court,” may result in inflated and unrealizable public expectations of attorneys.

In the old regime of restricted information about the law in action, the legal order could be perceived in terms of its esteemed frontstage qualities—as formal,
autonomous, rule-determined, certain, professional, learned, apolitical, and so forth. Everyone knew it was not exactly that way in his or her own corner, but private and fragmented knowledge of local deviations did not challenge the received picture of the system as a whole. Professionals and outsiders could maintain cherished images of the legal world even while aware of much that the dominant paradigm labeled atypical and deviant. But the profusion of information about the workings of law challenged these relatively stable and comfortable views and made it more difficult to dismiss discretion, bargaining, improvisation, and politics as extraneous to the law.  

**Learning from Lawyer Jokes**

Where many groups feel threatened by social and legal changes, and others are disappointed in the law's unfulfilled promises, the underlying and ineradicable themes of hostility toward lawyers are available to decipher and explain these troubling developments.

Jokes about lawyers have been around for a long time, and in the 1980s they acquired a prominence and currency they had not enjoyed earlier. By the mid-1980s, observers noted an increase in the frequency and intensity of joking about lawyers. In 1986, a Los Angeles lawyer identified lawyer jokes as contributing significantly to the pervasive negative image of the profession and admonished lawyers to "recognize the inherent destructiveness of lawyer jokes and [to] resolve not to tolerate them." A year later, Alan Dundes, the leading student of joke cycles, noted the onset of a wave of lawyer jokes. The following year the annual meeting of the California bar included a workshop on the spread of lawyer jokes entitled "Why Are They Laughing?" Observers noted the "state of lawyer joke-books," "radio talk shows across the country . . . feeding the frenzy, vying with each other in barrister-bashing," and "the emergence of a virtual mini-industry in legal humor."  

Lawyer jokes had their moment in the media sun in 1993, when a disgruntled client's shooting of eight people in a San Francisco law office led the president of the California Bar Association to call for a moratorium on lawyer bashing: "There's a point at which jokes and humor are acceptable and a point at which they become nothing more than hate speech." His plea provoked an outpouring of media comment, almost all of it hostile. Animosity toward lawyers is perennial. Its expressions and intensity change, drawing upon a great cultural repertoire of antilawyer observations and sentiments. At the turn of the twenty-first century, between five hundred and one thousand jokes about lawyers were circulating in the United States. Any such number is arbitrary, for just how many there are depends on how one distinguishes lawyer jokes from other jokes and similar items from one another. The point is that we are not dealing in dozens or in thousands. There are many ways to impose some order on this mass of material. One could organize it by form, sorting out narratives from riddles, or by source, or by time of their appearance. Because I want to relate the jokes to other expressions about