

Rites de Passage: Law Students “Telling Their Lives”

James R. Elkins

I. Legal Education: The Felt Experience

If we are to understand that what takes place in becoming a lawyer, the taking on of a professional identity and new persona, then we need a better sense of how students experience their initiation into professionalism. What does it feel like to begin the study of law? How do students experience those earliest days? How does “it” look to those who venture out on the journey, those who are to be initiated into the ranks of professionalism?

These questions took on new meaning when students wrote journals in my courses. I began to see common patterns and shared themes in the journals even though students assumed they were writing only about their own feelings and experience, about how law school affects them personally as human beings. The narrative fragments, and bits and pieces of stories reported here, were culled from journals that students wrote in various law school courses: Introduction to Law, Legal Ethics, and Jurisprudence. The journals utilized for this article are primarily those of first-semester, first-year students in a course called Introduction to Law.

In reading law student journals, I was struck by the poignancy with which students describe their early experiences of law school. It is a time of exhilaration, high expectations, ideals, and dreams. It is also a time of frustration, stress, conflict, boredom, alienation, depression, and despair. Beginning law school is a time of intense feeling and awareness and consequently might best be described as “a psychological moment.”

In the rough-and-tumble of the first months of law school much is negative and dark. This does not mean that legal education is a “bad experience.”¹ It does mean that when we are open to law students’ views of their own lives and experiences, we learn that all does not go well, that there is a cost to being trained to participate in a social institution like law, that being initiated into professionalism can be a painful experience. Anxiety,

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1. While the earliest experiences of law school are frequently defined in negative terms, the nature of that experience changes over time. As the years proceed, the law student is transformed and for some this transformation becomes a quest for meaning. In the more comprehensive work from which this article is drawn I follow Robert Coles’ admonition and seek “what is strong as well as what is weak, what is sound as well as what ails, what might be struggling for expression in a person’s life as well as what is lacking.” Robert Coles, *The South Goes North* ix (Boston, 1971).

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fear, pain, and suffering are part of legal education² and suggest that becoming a lawyer involve more (or less) than learning "to think like a lawyer."

The stories of unhappy, dissatisfied, disaffected, disenchanting, alienated students are of significance if we are to understand legal education. Robert Coles, a psychiatrist, describing his study of children, speaks of his effort to "locate" his "body and mind where certain *citizens* are up against difficult times, so that their lives, like those of the sick, may have something to teach the rest of us."³ The lives and voices of the students who suffer reveal the price of admission to the profession, the pain that is masked and forgotten by those who succeed and have no cause to complain. The suffering of the few is a valuable source for understanding a pedagogy and curriculum that purport to serve the many.

Law school is one of those "difficult times," a time explored when students speak and write about their experience, their failure, their suffering and the adaptive behavior that undermines the ideals and values sought through a life in law.⁴ The "troubles" of the law student are a mirror reflecting the hidden, human depths of law school initiation rites. Law school is a powerful, transformative experience in which the soul as well as the mind is at stake.

The soul of legal education is mirrored in the stories, some of the most poignant of which are about suffering, of the social world called legal education.⁵ Selected fragments of student narratives⁶ are drawn into a

2. For the most recent account of the psychological dynamic of legal education, see Lawrence Dubin, *The Role of Law School in Balancing a Lawyer's Personal & Professional Life*, 10/1 *J. Psy. & L.* 57 (Spring 1982).
3. Robert Coles, *Children of Crisis: A Study of Courage and Fear* ix (Boston, 1967). Coles' study is certainly more sophisticated and comprehensive than my own as it was based on extensive interviews and observations of a psychoanalytically trained psychiatrist. In a later volume Coles describes his work as "a study of individual lives, but also of lives that are part of a nation's history and lives whose complexity often enough defies the willful approximations of any one "discipline" or "profession." Coles, *supra* note 1, at ix.
4. The adaptations are in some instances little more than psychological defense mechanisms (see generally George Valliant, *Adaptation to Life* (Boston, 1977)); in other instances, adaptations are part of an elaborate narrative that helps the student to explain at least to him/herself how conflicts are to be resolved, ideals maintained, and the dream pursued.
5. "We may wish to believe that each utterance, or at least some of our utterances, are purely our own, conceived by us in the twinkling of a moment, the fact is, however, that deeply rooted cultural and social structural forces influence these expressions and utterances." Thomas J. Cottle, *Private Lives and Public Accounts* 19 (Amherst, Mass., 1977). C. Wright Mills observes that "when we understand social structures and structural changes as they bear upon more intimate scenes and experiences, we are able to understand the causes of individual conduct and feelings of which men in specific milieux are themselves unaware. . . . Since they live in restricted milieux, men do not and cannot be expected to know all the causes of their condition and the limits of their selfhood." C. Wright Mills, *The Sociological Imagination* 162 (New York, 1959).
6. The excerpts do not include details or references that might reveal the identity of the writer. For the most part, the excerpts are sufficiently topical that even the writer of a particular fragment would have difficulty identifying the work. Even as I use the student's work to show the negative, "shadow-side" of legal education, I have in no instance used an excerpt to argue that a particular writer is neurotic or pathological. In fact, the excerpts are used solely for the purpose of mirroring the social environment rather than presenting a psychological portrait of a particular individual.

second-level narrative, a view of the collective, social world, a picture, a sometimes unflattering portrait, of legal education. The picture is simply one photograph, one impression of the law school experience. The photograph "developed" here⁷ reflects the themes and concerns that speak to me from the journals, themes and concerns confirmed in conversations with students and, for the most part, ignored by my colleagues.

As one might suspect, no single, universal feeling or theme describes the experience of *all* law students. The "felt meaning" of law school is not predetermined. Law students first experience the complex world of legal study and assimilate and cope with their new experiences in a wide variety of ways.

And yet, with all the diversity, common themes and patterns emerge.⁸ William Perry, in his study of college students at Harvard, notes:

Of course, a person will use a variety of forms in construing different areas of experience at any given time. However, within this variety it is possible to identify a dominant form (or

7. Thomas J. Cottle, a sociologist who has written eloquently about "life studies," notes that

just as two people will photograph the same event or person differently, so will two people develop and print the same photographic negative differently. One person will emphasize one quality of the photography, the other will emphasize something else. In this personal emphasis, in this final artistic rendering—the period when editorial and substantive change are made—lies the heart of the subjective inquiry, which is what the life study and the accounting of public and private experience is ultimately about. We choose only certain photographs, select only certain portions of a particular conversation, remember only certain fragments of conversation. It has to be this way, even with mechanical recording devices. Data, no matter in what form, are reduced. The reduction process . . . is an inevitable one.

Supra note 5, at 21.

8. David Seamon in his book, *A Geography of the Lifeworld* 23 (London, 1979), observes:

At one level of human experience, each of us is unique . . . at another plane of existence, however, we each share certain common characteristics . . . (our) experiential descriptions reflect human experience in its typicality. Certain themes and characteristics pointed to in one participant's experience may find echoes in other people's experience.

Gunther Stent, in an essay entitled "The End of the Arts and Sciences," suggests that science is "the effort to abstract causal relations from observable public events of the outer world" and is

by its very nature a statistical endeavour. The scientist thinks he recognizes some common denominator, or structure, in an ensemble of events, infers these events to be related and then attempts to derive a "law" explaining the cause of their relation. An event that is unique, or at least that aspect of an event which makes it unique, cannot thereby be the subject of scientific investigation. For an ensemble of unique events *has* no common denominator, and there is nothing in it to explain; such events are *random*, and the observer perceives them as noise. Now, since every real event incorporates *some* element of uniqueness, every ensemble of events contains some noise. And, so, the basic problem of scientific investigation is to recognize a significant structure of an ensemble of events above its inevitable background noise.

Gunther S. Stent, *The Paradoxes of Progress* 53-54 (San Francisco, 1978). The effort to understand the experience of becoming a lawyer has a high degree of uniqueness, and thus presents a high level of noise. Any signal about the meaning of the experience (i.e., the form or individual structure available to interpret the experience) appears within the context of this noise. I have tried to identify some signals in the noise.

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central tendency among the forms) in which the person is currently interpreting his experience . . . especially in regard to those forms in which a person addresses knowing, valuing, and responsibility.⁹

A phenomenological topography of the "felt experience" of the student's rite de passage illuminates the "human face" of legal education. The map is a crude one. It will not fit the experiences of every student. While displaying certain features it ignores or obscures others.

Scott Turow's Narrative of a First Year at Harvard

Scott Turow in *One L* provides a dramatic detailed account of the subjective, human dimensions of the first year at Harvard.¹⁰ Turow's narrative presents a frame of reference within which the experiences of my own students can be recounted and remembered. It suggests that legal education is a transformative rite de passage. As a classmate told Turow: "They're turning me into someone else . . . They're making me different." What happens to a student during the emotionally intense first months of law school? Turow's account suggests that law school is an intense, psychological experience. "Studying, I often feel as if I'm borne aloft, high just on the power of enlarging knowledge, making connections, grabbing hold. Then, suddenly, I'm close to dread." The elevation is offset by frustration, anxiety, and fear. Turow, after his first weeks, "[h]arried, fearful, weary" and often "near to panic, a ferocious, grasp sense of uncertainty." Law school became an "emotional merry-go-round."

Turow explores the change in feelings which takes place in the early months of law school. While he disavows the sense of crisis that some classmates were experiencing, he recognizes that he is learning more than a process of analysis or a set of rules. Like his colleagues, he is uncertain about what is actually taking place, what it all means. He hears other students say "that they were limited, harmed, by the education, forced to substitute dry

9. William Perry, *Forms of Intellectual and Ethical Development in the College Years 3* (New York, 1970). Studies by Jean Piaget, *The Moral Judgment of the Child*, (New York, 1965), for example, and the work of social psychologist, Lawrence Kohlberg, *The Philosophy of Moral Development: Moral Stages and the Idea of Justice* (San Francisco, 1981), also utilize the idea of general forms of experience (patterns, structures, stages) in their efforts to explain human development. Freud and Erik Erikson are also developmentalists who incorporate stage theory into their metapsychological formulations. For Freud, and particularly for Erikson, a stage of development describes a patterned way in which an individual experiences the world.

Both Freud and Piaget claim scientific validity for their work. If we view the formulation of a stage or structure within which experience is assimilated as an observation of individual behavior for dealing with the world and the self-reports that describe our experience, then we can see how theories about these structures have an empirical, if not scientific basis.

10. Scott Turow, *One L* (New York, 1977). Turow's psychological account of his Harvard experience presented here is drawn from my book review of *One L*, 3 *Am. L. Stud. Forum* 81 (1978). The transformative nature of the experience is described in James R. Elkins, *Becoming a Lawyer: The Transformation of Self During Legal Education*, 66/4 *Soundings* 450 (Winter 1983).

reason for emotion, to cultivate opinions which were 'rational' but which had no roots in experience, the life they'd had before. They were being cut away from themselves." Turow concludes that thinking like a lawyer is "a grimly literal, linear, step-by-step process of thought" and makes one "suspicious and distrustful." You learn as a law student to believe nothing, to take no statement at face value, to question every premise.

As Turow describes his experience, we perceive a human cost in becoming a lawyer. Turow begins to see that cost when he realizes the dilemma. "Law as a way of looking at the world and my own personal way of seeing things could not be thoroughly meshed. . . . I would have to *learn* those habits of mind without making them my own in the deepest sense." Turow talks with his wife about the problem. "Achieve, succeed, do and be excellent. It was a kind of madness. What was going on? What the hell was I doing to myself?"

As the semester progresses, the experience takes on a different tone. The "emotional merry-go-round" abates as students interact, develop regularized work habits, and familiarize themselves with the routine. The early excitement and exhilaration give way and law teachers' antics and tactics wear thin.¹¹ Turow's mood becomes somber. "The initial strength and enthusiasms I brought to law school had been spent, and I had no reserves left. I was exhausted, still under the same pressures and, in consequence, occasionally gloomy." As the reality of the law school routine sets in, "the thrilling mystery of the law" begins to dissolve. Classes take on "a sort of sullen grimness."

Turow fueled by a strong competitive drive and need for personal accomplishment, searches for a way to understand the experience. Early in the year he writes about the connection he sees between law and everyday life. He observes that legal problems involve "the most fundamental assumptions regarding the way we live[d] each day—the manner in which we treat[ed] each other." Legal education alienates students because it blocks the connection between what is being learned and how people live.

Turow is pulled into the world of legal education with all its routines and demands, a world that satisfies his shadow side, what he calls his "greedy little monster." He is driven to succeed, a drive which Harvard epitomizes. "It is those of us compulsively pursuing some vague idea of distinction who are most likely to aspire to the Harvard Law School. . . . We are men and women drawn to the study of rules, people with a native taste for order." There is "that driven quest for prominence which brings us here, leads us, once we arrive, to an almost inescapable temptation to scramble, despite obstacles and ugliness and bruises, for what sometimes looks to all of us to be the very top of the tallest heap."

Turow, driven to success and accomplishment, recognizes that the

11. Turow develops an "affection" for a torts teacher, Zechman, whom he had at first disliked. In his early need for certainty, he had been unable to see the value in Zechman's endless questions. While many of his classmates had become hopelessly bored by Zechman, Turow comes to respect him for confronting students with the fact that there are no answers. Turow begins to see Zechman "as a sort of jeweler of ideas. He uses his questions like a goldsmith's hammer, working the concepts down to an incredible fineness and shine."

junction of personal needs and social milieu creates a problem for realizing the humanistic aspects of professionalism.

Too much of what goes on around the law school and in the legal classroom seeks to tutor students in strategies for avoiding, for ignoring, for somehow subverting the unquantifiable, the inexact, the emotionally charged, those things which still pass in my mind under the label "human."

Turow's account of his first year at Harvard could be read as telling us something about Turow, about Harvard, about the first year of legal education—or read more broadly, as the personal and collective pathology at the heart of legal education.

Listening To My Students

August 28. To date, I have felt very scared, bewildered, excited, arrogant, withdrawn, irritable, defeated, and much of the time, frustrated.

Tension, stress, apprehension, anxiety, doubt, fear, intimidation, terror, impending doom—are the words that appear in journal after journal when students describe their first months in legal education. Apprehension is so much a part of the experience that one student remarked: "I begin to feel scared because I was not feeling scared." The following poignant statement captures the psychological sense of a student's first days in law school.

The first few days of law school have been completely overwhelming. I've been determined from the first not to let myself be intimidated, but I can't ever remember being so anxious. The last several nights I've awakened at 3 or 4 o'clock in terror. What if I get called on tomorrow? Do I understand that case well enough to withstand Thomas's interrogation? How can I keep all these facts straight? Hell, I can't even remember what seat I sit in in class. The nightmares are the worst; I walk into a class and everyone is furiously writing their exams and I'm late. I didn't even know we were having a test. Cold panic grips my innards. Aargh.

The apprehension and fear are frequently experienced as a kind of free floating anxiety, an anxiety which finds its way into one student's dreams:

i

I have a sense of impending doom—as if something terrible is about to happen to me, without my knowing what, where, or how. I suspect I may have bitten off more than I can chew.

ii

I dreamed that my criminal law final was written in Arabic, which I had neglected to learn during the semester. All around me, my classmates were furiously writing, while I sat, in horror, staring uncomprehendingly.

The anxiety triggers broader concerns. The decision to come to law school, is itself, called into question:

What have I done? Given up a decent paying job, left my husband and farm . . . picked up my son and moved . . . gone drastically into debt—and why? . . . My biggest worry now is will my son adjust o.k.? Will I be able to spend enough time with him? . . . Am I being fair to my husband?

Doubts about being in law school and about the commitment that professional study requires are often tied to a fear of failure. As the student above put it, "Have I bitten off more than I can chew?" Or as another said,

"Am I willing to sacrifice everything to study law?" Alan Stone in his survey of the psychodynamics of legal education has noted:

The fear of failure at law school, particularly during the first year, has always been a serious psychological problem. Strangely enough, many law students believe that previous success has been achieved through some sort of fraud which will be exposed in law school.¹²

Stone's observations of Harvard students in the early 1970s still holds true. My students are plagued by fears of failure:

i

I have a fear and disgust of failure. I had never known failure before my first attempt to get into law school. It was the greatest shock and deepest hurt of my life to be rejected for admission. . . . I still cautiously watch for new rude awakenings that this adventure may hold for me.

ii

I don't believe that I deserve it [to be a law student]. It is a freak that I'm in law school, and when they find out they made a mistake, I'll be dismissed.

iii

I feel like a fraud.

iv

I was so scared to start law school—almost as scared as I was to start college. At both times I was afraid of failure, of not belonging there.

v

I have hot flashes of flunking out of school and becoming a homemaker. . . .

vi

Fear is the constant companion of many students during their first year in law school. And, after one week of attendance, I can testify that some professors actively try to increase the fear of their charges. I must assume they do so with the best motives, albeit with relish.

For some students the experience is more that of excitement and exhilaration than fear:

i

[Law school is] one of the most tremendous experiences of my life I have just completed one week and one day of legal education. I feel that I have absorbed more information in this week than in the whole of last year.

ii

I have so many thoughts and impressions floating around. I am so excited, challenged by my classes and experiences. I really love what I am doing. . . . Now I realize what job satisfaction can mean.

Both poles of the emotional polarity—the exhilaration as well as the sense

12. Alan A. Stone, Legal Education on the Couch, 85 Harv. L. Rev. 392, 425 (1971).

of being overwhelmed by apprehension, fear, and insecurity—can be partially attributed to uncertainty.¹³

i

Upon entering law school one finds that he cannot be so sure of things anymore. To a new student it is a great big illusion. Law school is another world

ii

When will the enlightenment come? When will I be able to see where all of this is taking me?

iii

Nothing makes sense.

iv

You really are not sure what is required and expected by professors

v

I believe that much of the frustration I am experiencing in law school is due to the lack of external evaluation. Although I am being evaluated by fellow students, and I do receive feedback from my fellow students, the real test comes at the end of sixteen weeks when we are evaluated by our teachers. At that time one finds out whether or not he has lived up to his expectations. I find it difficult to continue working hard for four months when I have no idea where I stand in relation to the rest of the class. I can't evaluate the quality of my work when there is nothing to judge it by.

vi

Am I doing enough?

13. Learning involves uncertainty. The more valuable the learning the greater the potential for uncertainty. In the absence of uncertainty there is no impetus to learn.

How much risk is necessary in order to learn? We need to know more about what kind of risk we associate with knowing. We need to learn about risk and discover our worst fears. The time to court failure is in those environments in which the cost of failure is relatively cheap.

Satisfaction comes when things fit, mesh, connect. Frustration results when the key doesn't fit the lock because it is bent. When the key doesn't work, we become frustrated and angry. When it works we are oblivious to the way it fits, the way it works. The fit is out of awareness. In the frustration and anger something comes to our attention, an awareness which makes us think about something (the key, the lock, and how they fit) in a new way. To get past the lock we have to be more aware of how it works, how to use it, how things fit. Otherwise, we are stuck.

Much learning is so smooth, so unobtrusive that it is out of awareness. We learn "mechanically" the way we use the key that fits. Too often, there is nothing about learning to call our attention to "it" as opposed to the substance of what we learn. We become mechanical, robotized learners.

To shake off mechanical learning approaches we must throw away the program for the course, explore the frustration, and see how things fit, and fall apart. In a conversation with one of my students, he indicated that he was having trouble "nailing down" what I was trying to do. He approached me as if his difficulty was an indictment of my teaching, that something was wrong with it. The course was one in which "making something" of it ("nailing things down") was indeed a problem. In most courses, the instructor and course content provide a sense of what it is all about. I advocate courses with less structure and more building, less history and more living, less content and more process. In such a course the focus is on fluidity and learning about uncertainty.

vii

I feel that I am at the mercy of my professors; that they can and will call the shots; and my success/failure is determined by their evaluations. I still walk into my classes with the sinking stomach syndrome. I want to enjoy the experience, but I feel that the preparation and desire to perform shadows my full grasp of the material. I think that I'm not getting something I should be out of the experience. This leads to my fear that I'm not as intelligent as my classmates. My confidence is not where it was when I graduated from college. I have a sense that I'm not analytical enough—that I should be retaining much more knowledge.

viii

I could go through the first semester, possibly all three years, and possibly never be told that I was not what they expected.

ix

I think the most difficult part of this first semester in law school is the uncertainty of what is expected and what is necessary to be successful. It's possible to work and work and still feel that it's not enough. One very detrimental result of this uncertainty is that you cannot feel free to develop other very important aspects of your life.

x

People outside the law school ask me "Do you like law school?" and "How are you doing in law school?" The answer to the second question, I find easy. It is simply that I don't know how well I'm doing. I try my best to keep up and to listen in class, but I don't really know if that is enough or if I'm beginning to think like a lawyer. I find it hard to let things sink into my mind. I just don't know what is expected of me or what I should retain, or what I should question or accept. However, I would not say I'm troubled. But I am totally uncertain about how I'm doing. At this stage I won't let it bother me because I think uncertainty in the first year is to be expected.

It's sort of weird how in law school you have no idea of how you're doing until it is too late to make any corrections or improvements.

xi

There are no services on this route. Highway road sign.

These reflections on uncertainty were often joined with expressions of concern about lack of direction and the sense of not being able to put it all together. In some instances, the uncertainty produces extreme forms of anxiety:

All of a sudden, honestly, out of the middle of nowhere, I find that I am not entirely comfortable in any one of my classes. I don't always catch on to the drift of a professor's lecture, my notes have gaps, and I am getting a little worried. I am especially having a hard time distinguishing the classes. I could be sitting in property and not be completely sure that it's not my torts class.

The intensity of the experience is reflected in behavioral changes. Students write about feeling tired and, as the semester continues, of exhaustion. Others report that they have trouble sleeping and some find that they are drinking too much.

i

I'm smoking more, biting my nails compulsively, having trouble falling asleep and waking frequently after I do, and pacing around after I've finished studying all night, worrying that I've forgotten to do something vital.

ii

I either sleep poorly or can't stop sleeping. I have trouble starting my work and concentrating once I start, and I have a feeling of restlessness, uselessness, and futility, as if nothing I do will make any difference.

iii

So far this semester, I have had occasional problems getting to sleep. I had a particularly frustrating time of it last night. I don't think that I'm all that nervous about law school, but something seems to be keeping me up at night. I think that my subconscious may be really nervous about this whole experience. I've talked to other people in class who have had trouble getting to sleep. On two occasions, this inability to get enough sleep has caused me to miss classes.

iv

The pressures are overwhelming. I have "sores" in my mouth, an upset stomach and can't sleep at night. However, this seems to be quite common among not only first but second-year students in whom I confided, which is somewhat reassuring.

Students seem to be on an emotional roller coaster. One day they are confident and articulate; the next day they fear that they will not be able to pull it all together, that they will fail their exams. The volatility of their feelings, the seesaw, the up-and-down sensations become even more intense as the semester progresses. One student described it this way:

Becoming a law student has been the most dynamic change I have ever experienced. I have never been so submerged in anything or anyone in my life. Law school is challenging, frightening, and interesting. I enjoy getting absorbed by it, but at times I feel so tired and frustrated from all the study that I feel imprisoned. Other classmates describe the same feelings. One day you are confident and articulate; the next you are sure that you are going to flunk out. The ups and downs come and go, but they seem to get more intense as the semester goes along and you have no indication of how good or bad you are doing. The "not knowing where you stand" is foreign to most of us.

The uncertainty and the emotional roller coaster of the early weeks eventually subsides. There is a "turning point." The excitement and energy fall into place. Routine replaces shock, weariness dulls what early on was amazement and intrigue at the challenge. The reality of law school work begins to take its toll.

i

September 13. The work in law school now seems to be getting at least a little easier. Routine is replacing panic.

ii

Two weeks have concluded, and I find my head filled with thoughts. The most overwhelming feeling is being tired. I believe this to be the result of apprehension about school, fear of not finding any niche, fear that I'm not intelligent enough to be in school, and a depression due to not having a total grasp on myself.

iii

I was concerned in an early class to hear that my enthusiasm might be dampened. Not me. I love it! This is a delight. Confess. I'm depressed. A lot of work piling up. I'm behind in my outlining. The work gets harder and harder.

* * * *

Things have suddenly become time consuming. I am trying to review my class material on a fairly regular basis—have succeeded in property and contracts. But the sheer volume in torts boggles the mind. The longer I put it off, the worse it gets—and there is no way I can get my hands on a Prosser short of plunking down \$25. So, I'm going to spend the weekend on criminal and classwork to free myself to climb the mountain next week.

Students become depressed, “let down,” bored, tired (mentally and physically), “feel blue” and inadequate:

i

This is the beginning of my second month in school. I think I'm already getting in a rut. It seems like I'm just going through the motions. I do property homework Sunday night, torts cases Monday morning, criminal law Monday afternoon, Introduction to Law and Contracts on Monday night, property homework Tuesday night, and on and on. The process gets to be a drag. I feel like my life consists of going to classes, mechanically briefing cases, not even thinking about what I'm doing.

ii

At this point [mid-October, first semester, first year] I am physically tired. I have really worked hard at school and at home. Now I'm questioning whether I want to be here or not. In trying to deal with this, I find that I am depending a lot on what others think. I do want to be here but it is getting to be too much for me right now.

* * * *

I am apprehensive about making decisions. I like things to be straightforward and perfect. I do not want to be responsible for things going wrong. I don't want the heartache.

As the semester progresses, fears of failure fuel the student's self-doubt and uncertainty. Frequently, there is a sense of being overwhelmed:

I've been strolling through this semester with a lot of confidence, only at times becoming frustrated or worried. Now, I feel pangs of anxiety that increase daily because finals are near. I have started to doubt myself and second guessing what might be on the exams. The problem is compounded by professors piling on more work and holding extra classes just as I need the spare time to study. I could flip out completely with all this uncertainty and pressure, but I try to tell myself that it's not that important and that I will do o.k. I just wish it were over. Is this despair?

Students struggle to work out an appropriate level of involvement in law school that will allow them to do what is required while maintaining some kind of personal life. “When deciding to come to law school, I realized that I could not let it become my entire life.”

The demands of law school create conflict for the student because they cannot be met without the student's giving every minute to study. There is simply no end to the work that “needs” to be done. The work seems awesome and is often imagined as a “mountain” to be climbed. “[T]he challenge of legal education seems to me more like an Everest, not the idyllic grassy knoll I envisioned a few weeks ago.” Doubts about the decision to start law school are replaced with doubts about “staying in.”

i

I sit and wonder if I will ever grasp all the information that I have in my notes.

ii

I am beginning to worry because of the voluminous amount of material that we are accumulating and we have only just begun.

iii

I have been thinking more about the exams that await us at the end of this semester; and the apprehension is growing.

iv

I have been thinking a lot about tests, and it's starting to affect me. I can feel the pressure building inside me as final exams come closer. I guess the thing that affects me most is the fact that I have been working hard for the last three months and I'm still not sure if I will make it through. I had great confidence in myself when I started school, and this confidence has been progressively fading away as tests come closer.

v

How can I possibly get through this? This is the question I repeat to myself. The task that lay before me (I should say towered above me) appeared to be too difficult and enormous for me to complete. I didn't think it possible for me to get a J.D. It was as if I had just approached a huge mountain I had intended to climb but now standing in its shadow I am forced to realize that it is too big.

vi

But no matter how much positive thinking you do, the fear of failure is present. You really just want to lay your pencil down and run away. Every time I start to study I have to force myself to concentrate. The mere thought of doing my preparatory work for finals makes my head spin and my stomach do flip-flops.

vii

When I compare myself with the rest of my class it seems that I am doing as I had expected. However, when I compare myself with my idea of what a law student should be, I feel as though I don't even belong in law school and that I am not doing very well. It will be interesting after exams to compare my ideal with reality.

The insecurity and fear of failure is especially pronounced as the semester progresses and finals draw near:

i

Last week's property classes were particularly distressing. We began real property, and I was completely lost all week. The fear of not knowing what was going on was practically crippling. I was actually panic stricken with the idea I might be missing something that I could never regain. It is amazing that any system could depend upon so many integral parts. It obviously is not that important, but the pressure makes it seem that way.

ii

Creeping insecurity. Every once in a while, a little scared feeling that everyone else knows what is going on and I don't. Bad for me to compare myself to everyone (anyone!) else. I can't worry about that. I can only hope that I can keep plugging away.

iii

My anxieties about approaching finals seem to come and go as any other mood. I am still amazed at how we are tossed into this educational jungle. Even as I write my outlines and answer other classmates' and professors' questions, the anxiety exists. I am sure I am

learning a lot, but will it be enough to do well on the finals. You can't escape that feeling no matter how well or how much you are doing.

iv

Time is getting short now [Two weeks before finals]. My stomach is in knots and my heart is up in my throat. I'm scared to death. I'm afraid of failure, I guess. I've always done well academically. High school valedictorian, dean's list every semester and magna cum laude in college. I've got to do good. It's expected of me. I expect it of myself.

v

As the semester draws nearer and nearer to a close, the pressure is becoming more and more unbearable. I can't understand why I'm so uneasy and scared. I don't feel like I know anything. But I know that this can't be true. I'm running scared and the faster I run the more scared I get. I've got to slow myself down and take a good long look at things.

There are notable exceptions to this general pattern of anxiety, fear of failure, and depression:

i

Every day it seems as if my understanding of the law and my *feel* for it is increasing. In spite of the pressure and anxiety, I enjoy school now. I love learning, and when I began to feel that I was really learning, I began enjoying it.

ii

Things that used to be important, aren't. I am crazy about reading law. I enjoy it. I wish there were more hours so that I could do it with total completeness. The stuff really interests me. Property. Contracts. I have become a social isolate. I never go out. The only thing that seems to be important is studying. Maybe this is just "freshman fervor." I've been told that it will wear off.

When law students enter the highly ritualized initiation process in law school they are confronted with a complex, multidimensional world. The student is asked to leave the security of a "relatively" known world, a world in which certain tasks have been mastered, supportive relationships formed and maintained, and ways devised to keep self-esteem and identity. As one student expressed it: "I had prepared myself as well as possible for what I knew was to be a difficult transition from a competent, responsible, knowledgeable nurse to that of a floundering, doubting, questioning student in the eyes of the law faculty." Other students agree.

i

God, what a fascinating yet difficult challenge. Fascinating in the sense of a venture into the unknown. Law school is an unknown quantity, full of differing admonitions from the dean (a la "Paper Chase") to those of well-meaning (?) second or third-year students ("It ain't so tough," "I didn't brief a case after the first month.")

ii

WEEK ONE

Apprehension. What more can I say? It is overwhelming and intimidating. The pressure swells like the throngs of students milling in the hallways before and after classes. Being swept into the unknown so full of diverse and random stimuli that I cannot comprehend it all, let alone respond. The most I am able to do is stammer, look perturbed, and go about my way.

There is just so much to be absorbed: a new language to be learned, new faces, new friends, a new way of living, new races to be run. . . . That's it, it's a marathon, a test of endurance.

The intense and powerful drama is emotionally engaging because the outcome matters. The student makes sense out of the welter of law school experiences by being attentive to the experience and acting on what is "given."

The student's image of lawyers, of self as a lawyer, of self as a person is called into question in classroom encounters. It is during these first days and weeks of legal education that vaguely perceived notions of law and lawyering are subjected to the acid test of reality (or at least the reality of those who call themselves law teachers). Students describe their encounter with the reality of law teaching in vivid stories:

i

The class is a world in itself. There are no windows, just the professor on the stage. All attention in class is directed on the professor on the stage. He is *the authority* in the class. An analogy can be drawn between the professor's relationship to the students and the relationship between a king and his subjects. The king is in control of his kingdom, and the professor's kingdom is his class. The subjects in the class view the professor as an omnipotent authority on the law. What the professor says is the law,

ii

At 2:05 p.m. the professor walked down the middle of the classroom to the podium. The class became silent as he spread his notes and books out on the desk in front of him. Without looking up he called a student's name and calmly asked him a question. Those were the last calm words he spoke. For the rest of the hour he went from student to student pressing for answers and at times he seemed on the verge of a rage. Once during the hour he stood on top of his desk and shouted at a student to make his point. I felt nervous and intimidated throughout the entire hour. The faces of the students around me seemed to express the same feelings. About ten minutes before the end of class, the professor's voice hit me like a gun shot. He had called my name. I felt my stomach turn and my face flush as I anticipated the question he was about to ask me. His question dealt with the liability of an actor in a hypothetical trespass case. He had asked several questions during the class that I couldn't answer, but I felt confident with this question. I answered that the actor wouldn't be liable because his act was privileged. The professor didn't respond to my answer. Instead, he asked another student another question. My stomach was still churning, but even though the professor hadn't responded to my answer, I felt somewhat relieved that I had survived my first question. I thought to myself, no response is a good response. When class ended that day, I left thinking that I was going to hate torts class. Now that I think back on it, though, I realize that it was really very stimulating. I don't think that there will ever be an occasion to daydream in that class. One thing I know for sure, I'll never go to torts class unprepared.

iii

What a terrible day! I was the "victim" today in torts class. "He" started calling on me at 1:08 and didn't stop until class was over at 2:00 p.m. I felt small, belittled, and stupid. I could hardly take notes because my hand was shaking so badly. I kept wondering if all the people in the class thought I was as stupid as I knew I must be appearing.

At some point he made a reference that some of us didn't belong in law school, that we really couldn't master the level of thinking required for a career or study in law. That hurt! Was he implying that because I didn't understand his questions or his points, that I wasn't intelligent enough to be here?

I felt angry and humiliated when I left the class. I had allowed myself to be made a fool of in front of my peers and worst of all, I began to doubt my abilities.

Intimidation mixed with the element of fear seems like a poor way to learn anything.

It's such a new mode of communication for me. To be yelled at, ostracized, and be the brunt of jokes is a novel way of making people think "like" lawyers.

iv

The teacher-student relationship in law school is evidenced by the very shape of the classroom. It's like an amphitheatre, with the teacher on an elevated podium from which, if he chooses, he can dominate. The students in the back are too far away to assert themselves psychologically; the students in front are in a physically inferior position, where the professor can glower down at them.

But perhaps all of this is overridden by the very nature of the discipline we are trying to learn. The teacher has a complete monopoly on all relevant in-class knowledge. Rarely, grudgingly, do they acknowledge that we may be learning something. It's as if we are intruding into their own private world, where our presence is close to being unwelcome.

And for those who entered law school blindly, perceptions of lawyers and their role as a lawyer now begin to crystalize. Students must come to grips with the phenomena called Socratic teaching. The Socratic method gets mixed reviews:

i

Even though the Socratic method induces a certain amount of fear in me, I am personally prepared to deal with it.

ii

My personal exposure to the Socratic method has been of a positive nature. While I was nervous and scared during my experience with it, I also enjoyed it. In my classes, the teachers have not sadistically abused their power by publicly humiliating the students.

iii

My first impression of the Socratic method is favorable. It helps you prepare for class, makes you pay attention, and it looks like it will develop the mental toughness necessary for becoming a good lawyer.

iv

Being put on the spot and forced to think aloud can be very degrading. I feel like a fool in front of my peers, but at the same time, I realize the value of this method. No one's teaching me, I am teaching myself.

Confronted with the "legal version" of the Socratic method of teaching the student attempts to master what he is told is a new way of "thinking." And through the persuasive efforts of both professors and students who have "been through it," the prospective lawyer realizes that he must learn to adapt to a new way of being to *become* a lawyer.

II. Adaptive Stances

Legal education, as any ritual, has a grammar of wholeness,¹⁴ but no

14. I have adopted the phrase from Loder, Transformation in Christian Education, 76/2 Religious Education 204-21 (1981). This section of the article on adaptive stances first appeared in an earlier version, Coping Strategies in Legal Education, 16/3 The Law Teacher 195-210 (1982) and is used here in revised form with permission of the editors of *The Law Teacher*.

logical place to begin. There is a sense of having missed the beginning. It is not unlike arriving late at a movie, sitting for a period of time, waiting to catch up by getting a sense of what must have gone on before. One student described it in a journal entry he called "The Middle."

For a new law student the beginning is really the middle. What does it mean to start something in the middle? Sometimes, it means the beginning is over, lost, gone. Out of necessity one must start in the middle and go forward. On the other hand, it means selecting an arbitrary point and proceeding in all directions. But all of this assumes a beginning and an end in a sort of linear sense. For me the study of law seems to operate on a circular path and, therefore, one starting point is the same as any other.

The sense of no-beginning is combatted by turning to those with whom the experience is shared. "What is going on here?" Someone is always willing to explain "what is happening." However, the student "experts" usually fail to mention that they too, arrived late, and found out what was going on from someone else. Few students have the courage to "wait" and see how they can give meaning to these early doubts and uncertainty. The students response to the law school experience depends upon how much of the movie they missed and how much they are capable of filling in on their own. Historian Arnold Toynbee notes that individuals, like societies, are confronted by a

challenge which imposes an ordeal. Under each of these common ordeals, the parties react in different ways. The majority succumb outright; some just manage to survive but at the cost of such wear and tear that they are good for nothing afterwards; others discover a response to the challenge which is so satisfactory that it not only carries them through the ordeal of the moment but puts them in a favorable posture for undergoing the next; others, again, follow those path-finders as sheep follow their leader into a gap which he has forced through a hedge.¹⁵

In the face of incessant demands, students develop strategies for coping with an experience that seems bent on devouring them.

Legal education involves a struggle to:

- master a mode of teaching that invades our privacy, poses a constant threat to our integrity and sense of self-worth, and makes us anxious;
- learn a body of knowledge which at times threatens to overwhelm;
- attain the skill necessary for solving "real" human problems.

To cope with law school the student must deal with the emotional polarities: excitement-doubt, exhilaration-depression, confidence-anxiety, hope-despair, belief-alienation.¹⁶

15. Charles Frankel, *The Case for Modern Man* 171-72 (Boston, 1956) (citing Arnold Toynbee).

16. See David W. Robertson, *Some Suggestions on Student Boredom in English and American Law Schools*, 20 *J. Legal Educ.* 278 (1968); Phyllis W. Beck & David Burns, *Anxiety and Depression in Law Students: Cognitive Intervention*, 30 *J. Legal Educ.* 270 (1979); Paul D. Carrington & James J. Conley, *The Alienation of Law Students*, 75 *Mich. L. Rev.* 887 (1977); and *Correspondence: Negative Attitudes of Law Students: A Replication of the Alienation and Dissatisfaction Factors*, 76 *Mich. L. Rev.* 1036 (1978).

There is a positive side to alienation when it is used to help us "see through" legal education. How can a person accept the "seeing through" that comes from alienation and at the same time escape its devastating impact on life? Humanistic psychologist, Charles Hampden-Turner, has offered an apt description of the goal envisioned here: "To gaze upon absurdity, while recognizing its full horror and not permitting this nightmare to dull one's sensitivity." Charles Hampden-Turner, *Radical Man* 37 (Cambridge, Mass., 1970).

Routinization

Law students go about their business: buying books, attending classes, studying in the library, forming new social relationships. Excitement and anxiety are attributed to the fact that law school is a new experience. The feelings are explained away or ignored. "It's perfectly natural to experience a little anxiety in classes where you are constantly subjected to being called on. Don't worry about it." When we say "Don't worry" we try to deal with anxiety by "calming down" and putting the experience out of mind, cueing ourselves and others to move away from the "felt experience." In such expressions we work out the natural, practical, everyday consequences of the relation of self to the world, to law and lawyering.

The "feeling" side of law school tends to be minimized. "Oh, yes, feelings are always present," the response goes, "but that's just the way it is." On one level this statement indicates both awareness and acceptance of feelings, while, at a deeper level, it denies them. One consequence of this naturalist response—"well, we have feelings, so what"—is to cut off the need to face the diversity, range, and depth of feelings we experience.

The involvement in the study of law pushes the student to forget one's own experience, the experience of self.

I'm in a dull routine. I wake at seven. Get to school by eight. Get coffee. Read the newspaper. Go to the library. Wait on class; study. Go to class. Go back to the library. Study and wait on the next class. Go to it. Go home. Take a half-hour nap. Get up. Study until dinner. Fix and eat dinner. Study until weary. Retire. It never varies. It has conquered me.

A common (some would argue "natural") result is that law students (as people in general) pay little attention to the underlying meaning of their experience.

So much coming in, so few ways to comprehend it, that we do not "think" about it. We do it, over and over and over again, until it becomes automatic, like Pavlov's dog. In a situation like this we lose perspective on our selves and we do not realize what others readily see.

Law schools do not encourage students to develop critical insights into the learning experience. Students become lawyers without understanding the personal struggle that calls their self-image, their human identity, into question. In coping with law school by routinization, the student robs the experience of personal significance by "fitting" it into existing categories¹⁷

One possible approach to coping is a "self-conscious reinvestment" in the ritualistic routine and traditions. Stanley Cohen & Laurie Taylor, *Escape Attempts* 39 (London, 1976). This approach requires that the student *bracket* his disbelief and his alienation. The student must in some fashion avoid becoming "a true believer in disbelief." The object is to avoid being turned into a cynic, a transformation that happens to an alarming number of law students.

17. While there is a limit to how much "raw" experience any person can tolerate (from the psychology of perception, we learn that it is possible to attend to a limited number of external stimuli), still the constant accommodation to that which is known results in a denial of the unknown. This variant element ("the wild card") is the very element which may be necessary for developing a broader world view. By destroying all of the variant elements (the unknowns), we undermine our chances of survival and meaningful adaptation to a new environment.

—undergraduate learning, good teachers/bad teachers, studying for exams, making new friends. After a few days, weeks or months, professional school is reduced to another three years of school. “What is happening here?” the student asks himself. “Nothing new.” The idea is to get out of law school and get on with the big adventure that lies ahead. Law school is the routine that poses an obstacle, rather than a time for learning with its own intrinsic value.

Compartmentalization

Compartmentalization is another way to cope with a world that demands too much. The intruding force must be kept “in its place.” Students describe in vivid terms their efforts to keep law school in perspective, so that they can pursue other significant values.

i

I possess a professional self which I see when I'm studying law or concentrating in class. This professional self is the one that concentrates, worries, and is skeptical about what is being said and done. My professional self appears to be more goal-oriented than the other self. The other self surfaces when I'm not trying to concentrate on school work. It is the humanistic part of my personality. The humanistic self is most evident when I relax. Other people that I talk to also seem to have a public and private self. It is hard to merge the two. It is really hard for me to relax in class or when I study. When I'm in the classroom or studying, the serious, professional self takes control of my emotions.

ii

I made a decision over the weekend that I hope will help my studying and my home life. I am going to try to study only Sunday through Thursday and to rest and do other things on Friday and Saturday. I'm sure, however, that as the semester progresses I will have to give up my Saturday off and maybe even Friday.

iii

A lawyer has a job to do and it should be done without letting personal feelings interfere. The corporate president is not asking you to stand up at a town meeting and tell everyone how lovely pollution is or to take an ad in the town newspaper telling of the many uses of pollution. What he wants is for someone to represent him competently.

The people in law school who don't want to take pollution cases are going to be in a bad situation when they get a job with a law firm and are assigned a case they don't morally believe in. “I'm sorry Mr. Jones, I can't handle this case because it goes against my morals. You see, I don't believe in pollution.” The first one that makes that kind of comment will find himself looking for work.

* * * *

Lawyers are not taught to be valueless. However, a lot of my classmates feel they are being told to forget their values. I disagree. We are being taught to separate our private life from our business life. Lawyers must be able to look at a problem from a strictly legal viewpoint. They can't let their analysis be influenced by personal values.

A newspaper reporter must be objective, but a columnist can be opinionated. Likewise, a lawyer must be objective when looking at a problem. If he wants to let his personal beliefs come into the picture he should be a judge. Many football players are head-hunters on the field, but gentle, loving men off the field. This is how the lawyer should be. Mechanical in the office, but emotional, if that's what he likes, when at home.

iv

My impressions of law school are confused. I try to sort them out but can't yet. They should begin to crystallize soon. I try to keep my impression of school separate from what goes on at home but they slide into and color one another.

* * * *

I think everything can be summed up in the value of life satisfaction. There are two equally important elements: work life and home life. Both are related. I discovered that being unhappy at work carries over and affects my home life. Winding down takes several hours and being unhappy at work drained my psychic energy. In addition I had all kinds of physical symptoms because of job stress. (I had a friend who had headaches every day at work, and was better the hour she got home; aspirin didn't help, weekends did.)

* * * *

My home life is just as important to me as my professional life. I want several children, I want to be a good mother to them, and I want my marriage to work. A stable family life is a strong value of mine. I refuse to let my home life be subservient to my career as so many do.

I want to be dedicated to my work during work hours and to my home life during the rest of the time. I don't want to constantly think about work, when I'm home.

I can realize these goals if I am aware of myself.

* * * *

As far as turning off law school is concerned I have no trouble. I love it—am excited, challenged, stimulated, but not overwhelmed. I love it, even studying. But I have distinct times set up for school, home, and myself. There is a barrier between them. This is how I keep my preoccupation with law from destroying my home life, my relationship with my husband and my son. This sounds skitsy, but it is sheer survival. I feel no pressure during my scheduled time off.

At one time I hated to go to work and let it ruin my happiness at home. Now I am happy in my "job" and can throw myself into it and be fulfilled, and can forget work at home and throw myself into it.

* * * *

I am a law student during the day. In the evening, I am Mommy, and one evening a week a babysitter. On weekends, I am a wife. I am a housewife all the time.

* * * *

I have no trouble switching from one role to another. As a woman I was raised to do this. In law school I am outspoken, aggressive, without worrying about male egos. As a wife, if I want my marriage to survive, I must be less aggressive and accomplish my goals more subtly. I have no trouble shifting.

v

Are there allowances for human factors in being a professional, or will we be expected to function as machines? What will our clients expect of us? What of our families and others who depend on us? Is it possible to be reliable as a professional and incompetent as a person? Are we to be superhuman? Are we less effective in the community and in society when we are individuals? Do lawyers take vacations? Will our families become disassociated from us? When can we stop living the life of a "lawyer" and start living the life of the imperfect human being?

I know that I am physically drained from the attempt to be both professionally and

personally reliable. It takes a lot of energy to be dependable with my family and to be prepared for classes.

* * * *

The law student is a contemporary Van Gogh. Our suffering is inflicted in the form of the detachment of our emotion, accomplished through the development of the legal mind.

vi

I have tried to ignore my pregnancy as much as possible. I did not want anything to interfere with my best efforts in law school. I was hoping that both could peacefully coexist for a semester. However, I am now faced with reconciling my pregnancy with my endeavors as a student.

vii

As much as I've tried I am unable to get enough of my work done during the day so I can relax in the evenings. It would be nice to just sit down after dinner and read something besides a law text. I am jealous of people who can spend the time between 5 and 11 o'clock tinkering with a hobby, playing tennis, or walking. I am looking forward to having my evenings back.

viii

In the law office, your professional self is on display. I don't see anything wrong with this separation of personal and professional. So what if you have to act sort of phony to get the work done. It's all part of the game and people have to accept it in order to function.

The student learns how to maintain dual lives: one dominated by the public self, with its "legal persona," and a private/personal self that must be shielded and protected from the law school, a kind of devouring monster. This split of public and private self is carried into professional life; in fact, it might be seen as preparation for professional life. Compartmentalization, functional and self-protective in some situations, is also a source of alienation.

Compartmentalization is costly and difficult to maintain. Values and feelings in our personal lives influence our professional work and the legal persona is carried home. We should acknowledge and deal with the interaction of values and sentiments that move from private to professional and professional to private life. Compartmentalization fails to acknowledge the central and focal role of professional work in our lives. One way we give life meaning is through our work.¹⁸ Our character is tied to our work, we

18. We have traditionally given our lives meaning through a variety of cultural means which change over time and which bear directly on how we experience the world. Daniel Bell in *The Cultural Contradictions of Capitalism* 146 (New York, 1976) suggests:

Every society seeks to establish a set of meanings through which people can relate themselves to the world. These meanings specify a set of purposes or, like myth and ritual, explain the character of shared experience, or deal with the transformations of nature through human power of magic or *techne*. These meanings are embodied in religion, in culture, and in work. The loss of meanings in these areas creates a set of incomprehensions which people cannot stand and which prompt, urgently, their search for new meanings, lest all that remain be a sense of nihilism or the void.

become ourselves through work. Work "confirms us in skills and permits us to recognize ourselves."¹⁹

In some instances "the worker" has a conscious life plan with explicit goals and a timetable for accomplishing them. As one of my students remarked, only half jokingly, "Working myself to death," she said, "will get me to heaven." Others have no clear-cut goals. Without goals, or understanding the motivation for their work, or a clear self-identity, work can become mechanical. Mechanical, compulsive work habits are encouraged in law school. Teachers frequently suggest to students that "there is no way that you can ever learn all you need to know, but you must try." Moreover, teachers, who are themselves compulsive workers, assign immense quantities of material for students to read and assimilate. While such practices may produce the "best and the brightest," it rewards compulsive, frenzied work habits. The noncompulsive student plods along or does just enough to get by.²⁰

In the absence of other cultural means, work becomes the path by which we pursue our ideals and construct an ideal self. Work as the central psychological determinant of meaning

organizes, dominates, structures, and gives point to all else. At the principal point of conjunction of the capacities for love and work, wherever topographically located in the imagination's image, it is the capital point, the high point of the gradient of commitment. Disjuncture, then, between professional and personal ethic bespeaks the institution of that alienation from the world, which would imply a poor professional and a poor profession, or alienation from the person, which entails an impoverished professional and an impoverished self.²¹

The "disjuncture" between professional and personal life alienates us from the world, our work, and our selves.²²

19. Erik Erikson, *Toys and Reason: Stages in the Ritualization of Experience* 106 (New York, 1976). See generally, Sara Ruddick & Pamela Daniels, eds., *Working It Out* (New York, 1976).

20. One colleague has suggested:

It is physically impossible for anyone to complete, over an extended period of time, the quantity of outside work assigned by various instructors as preparation for class in law school. This is particularly true for first-year students still learning the techniques of study. Uncritical students will conscientiously try to do all the work, working seventy and eighty hour weeks, frequently resulting in severe nervous stress and anxiety in the spring. Brighter students will soon see they must make some personal judgments about which of the assignments are essential and which can be safely skipped, thereby adapting their abilities and time priorities to the job of mastering the material and getting good grades.

MacDowell, *The Dilemma of a (Law) Teacher*, 52 B.U.L. Rev. 247, 258, n.35.

The quantity of knowledge and overwhelming workloads are even more acute in medical schools. See Gaensbauer & Mizner, *Developmental Stresses in Medical Education*. 43 *Psychiatry* 60 (1980).

21. John R. Seeley, *The Americanization of the Unconscious* 225-26 (New York, 1967). Abraham Maslow claims that some self-actualizing individual's "assimilate their work into the identity, into the self, i.e., work actually becomes part of the self, part of the individual's definition of himself." Abraham Maslow, *Eupsychian Management: A Journal* 1 (Homewood, Ill., 1965).

22. See Stanley D. Rosenberg & Bernard J. Bergen, *The Cold Fire: Alienation and the Myth of Culture* 45 (Hanover, N.H., 1976).

Involvement

The struggle with the dilemma of involvement is central to the formation of a sense of professionalism. The array of stances might look like this:

<i>Involvement without Awareness</i>	<i>Involvement by Reduction</i>	<i>Involvement in the Present</i>	<i>Involvement with Commitment</i>
"I'm doing this, but it means nothing to me."	"I'm doing this, but it is nothing more or less than other experiences."	"I am doing this but have no sense of what it means or where it will lead."	"I am doing this in order to accomplish something, to be someone."

The dilemma of involvement is crucial because law school demands so much. We have seen how students experience law school as "awesome," the body of legal knowledge and skills looming like a mountain to be climbed and conquered. The skills needed—forceful, clear articulation in class, the ability to assimilate vast amounts of material, the ability to write cogently and coherently about diverse (and often uninteresting) topics, good memory for examinations—are either not present or marginally developed. One skill may be well developed and another totally inadequate. In attempting to avoid conflict and putting oneself to the test there is a tendency to withdraw and to become alienated. The lack of involvement cuts the students off from their vision, denying the reality of hopes, aspirations, and dreams.²³ The law school experience itself calls the students' skills and abilities into question. When we question ourselves, the entire enterprise must be put into perspective.

23. Alienated students have a general pessimism about law school and its effectiveness in preparing one to be a lawyer; they reject group activities in which close personal bonds are formed, suffer anxiety about the law school experience and about the world in general, feel that law is subjective and arbitrary, mistrust teachers, and, finally, are intolerant, resentful, and scornful in the classroom and in relations with teachers and fellow students.

This portrait of the alienated student was drawn from Kenneth Keniston, *The Uncommitted: Alienated Youth in American Society* (New York, 1965); Carrington & Conley, *supra* note 16 at 887 [hereinafter cited as *Alienation of Law Students*], and Correspondence: *Negative Attitudes of Law Students*, *supra* note 16, at 1036 [hereinafter cited as *Negative Attitudes*]. The textual quotes on the alienation of law students which follow are taken from the Carrington & Conley articles (*Negative Attitudes*, at 1036, 1038; *Alienation of Law Students*, at 889-90, 891, 892, 893 n.9, 894). A survey of law students at the University of Michigan in 1976 and repeated in 1977 suggests that a significant number of law students are alienated. Alienation is described as "an attitude of disengagement from the social and professional aspects of the law school and legal profession." The alienated law student

is not hostile so much as uncaring or "turned off." He is not sure why he came to law school. He does not enjoy his classes. . . . He wants the material to be more concrete and practical and has no appetite for what is perceived as an academic presentation not related to his vocational needs. . . . He does not dislike the faculty so much as he perceives them to be uninvolved in their assigned roles. He supposes that they do not work very hard, that they are little concerned about whether students become good lawyers, and that they are selfishly motivated. . . .

The alienated student does not value his association with fellow students and doubts that they enjoy one another's company much.

The alienation described by Carrington and Conley is manifested by about 15 percent of the Michigan law students and "appear[s] to be part of an ongoing crisis in professional socialization." The consequences of alienation are indeed serious. "[A]lienated students

i

Law school is not the ultimate. I have always wanted to be a lawyer but that is not all. I am here only to get some tools. Law will not be my life. I may practice law to make a living but I will not live it.

* * * *

As I go through school I realize that I do not fit in with any group. I am too conservative for the liberals. Too liberal for the conservatives. Too out of step for the moderates.

ii

I have never been so submerged in anything my entire life.

iii

I have been getting around three and a half hours of sleep a night. Everyone advises me that I can't survive on that amount of sleep. I actually feel that this is the type of dedication which a person must maintain in order to do the work in law school.

iv

I no longer feel that I have time to deal with trivial matters. The seriousness of law school is beginning to affect me. My problem is that I don't want to become so engrossed with the study of law that life passes me by. I realize that law is not a 9 to 5 job. There are going to be sacrifices to be in the profession.

v

I feel like I've made a super commitment with my life for the next 3 years. Law school and everything that goes with it has taken top notch in my life. I don't want any emotional involvements that might force or tempt me to take time away from school.

* * * *

I feel as though I've joined a convent and can't get out. I've made a choice to come to law school and now it takes so much sacrifice to honor that choice. For example, relationships, talking to friends, being concerned about other's problems.

vi

Law school has simply become my life. Anything else seems trivial. My attitude toward other people and issues has become one of indifference. If it doesn't have anything to do with law school, I don't care about it.

tend to exert relatively little effort on their studies and to be rewarded with lower grades." The fear (unconfirmed by the study) is that alienated students will make alienated, cynical, disaffected, and ineffective lawyers. This fear is based on the disregard of alienated students for professional standards and their lack of concern for issues involving the social responsibility of lawyers. Finally, alienated students affect the morale of other students and the faculty. In sum, they "detract from the quality of life at the law school."

Carrington and Conley distinguish the alienated from the dissatisfied which comprise 16 percent of the sample of 185. "At base, dissatisfied students seem to be resisting the pressure that they feel is placed on them to measure up to some abstract performance in law school."

While law students' alienation speaks to their lives as students, it also reflects a more pervasive cultural pathology: "The sense of disease with the self and with culture has filtered into the everyday lives of ordinary people." Rosenberg & Bergen, *supra* note 22, at 45. The contemporary person is "prey to a recurrent sense of dissatisfaction. He is intermittently bored, frustrated and neurotic" (Cohen & Taylor, *supra* note 16, at 21). In fact, "the 20th-century neurosis is the neurosis of purposelessness, meaningless, valuelessness, hollowness, or emptiness." Joseph R. Royce, *The Encapsulated Man* 76 (Princeton, N.J., 1964).

This indifferent attitude has affected my relationship with my friends. I feel a lot of distance from them. Their little peculiarities annoy me more than before and I wonder how I ever got stuck with friends like this. We no longer have much in common.

vii

I believe the main reason I came to law school is the freedom offered by being self-employed. Here you can bullshit your way through, skipping work every now and then, because when you practice law everyone is treated equally.

* * * *

One of the biggest helps a first year student can get is talking to recent graduates. My friend Nick has shown me that I've been wasting my time and how dumb I am to bust my gut to get high grades.

viii

Looking at the structure of the law school objectively, especially the way credit is given to students at the top (while utter disregard is shown for the progress of the rest) one might think the goals of the law school perverse.

* * * *

I have suffered more unhappiness in law school than I did at the combined acts of idiocy and violence perpetrated on me by the United States and the Regular North Vietnamese Armies, and I have had no opportunity to strike back. The indignities in legal education are based on grades. High grades = wonderful person; low grades = you shouldn't be here. Once the lines are drawn, the elite relax. They have gained entrance—they are now the sublieges of the feudal lords and may sneer at the rest of us with unfettered condescension. (One or two things I can be proud of is that while suffering this shit from people who damn well ought to be good students, never having done anything else, I have not taken the opportunity to knock the offending sneer off of their smug faces. Unheard of self-control in the company I keep.) It's all part of the system. Law students take to it so readily! It is flatly inhumane to place an overwhelming emphasis on something that so few attain. We are trained to be inhumane. Pain and anguish are facts to be proved to a jury, and then only if the defendant has the means to pay (otherwise the suffering has absolutely no legal relevance; the lawyers feel nothing).

There is a one-dimensional value system in legal education built around grades. Its effect is unnecessarily harsh. I have been through difficult periods before, but no other experience has ever made me feel *mean*. I am not a hater—I do not even hate the soldier who shot me in 1967—but I bear a feeling for law school that no Christian should have in his heart.

I am simply unwilling to submit to a lifetime which is dominated by pettiness and soulless contempt for human feeling that is so rampant in law school. If legal practice is like law school, I'll do something else. There is a time to walk away from things. No matter how much you have invested, or how hard you work to get where you are at, there comes a times when the game is no longer worth the candle and the sorrow you feel in giving up is infinitely less than the pain from going on. It's like peace with honor.

The perceptive reader will understand that I have not been a good student. (Let me be the first to tell it.) But there is more to all this than sour grapes. Drawing what chestnuts I can out of the fire, I think I was strong enough to resist going along, and the experience did not break my spirit. I hated it from the first day and will knock dust off my shoes after I leave on the last. I have been perceptive enough to understand that the people who run and teach in law schools set up straw men which they are uniquely equipped to knock down, they are all playing a game.

But the pain of it will not go away. I envy the best students, of course, and respect and like most of them on a personal level. Yet, I tried so hard—and I feel like I failed so badly. Maybe that's what I cannot accept.

My hope lies in the future. Success as a lawyer will prove that I identified bullshit when I saw it and that there is a difference between a student and a lawyer that the most omniscient test-giver can't identify. Failure means that I made a wrong step somewhere along the line. The only thing to do now is get out. The price and the pain have been too much. Best now to get on with the business of being alive.

The only respectable position left for me is defiance. I have come a long hard way from the pouring aisle of the steel mill, but I did it. To deny the quantum leap that I made is to deny the value of the human spirit and to accept life as a bad poker hand. I will be the last to do that.

The persistent sense of meaninglessness in legal practice results in an inability to adequately perform as a legal craftsman.²⁴ A craftsman is involved in the work and "cares." The uncommitted, like the atheist, find nothing sacred. Lack of commitment dries up students like a shriveled weed; it depletes their energy, cuts them off from their ideals, and leads to an impoverished identity.

Caring and Hope

In paying attention to what students care about, we get a sense of where they stand and how they see the world. Caring suggests a relation that matters.²⁵ The absence of care is a form of alienation. By looking at their

24. It makes some difference in a man's performance of his work whether he believes wholeheartedly in what he is doing or feels that in important respects it is a fraud, whether he feels convinced that it is a good thing or believes that it is not really of much use after all.

Howard S. Becker & Blanche Geer, *The Fate of Idealism in Medical School*, in *Society and Self*, ed. Bartlett H. Stoodley (New York, 1962).

Ortega y Gasset, the philosopher, suggests that most forms of studying are false. Ortega analogizes the student to the taxpayer; both student and taxpayer are what they are as a result of obligation. José Orgega y Gasset, *Some Lessons in Meta-Physics* 22 (Mildred Adams, trans.; New York 1969). Being a student is false when there is no genuine and authentic longing to study and to know about what is being presented by the teacher. In fact, "to be a student is to see oneself as a person obliged to interest himself in the very thing that does not interest him or, only vaguely, indirectly, or in general terms." Over time the mass of human knowledge grows and becomes more specialized while the student moves "farther and farther away from feeling any immediate and genuine need for it." As a result, there is "less congruence between the sad human activity which is studying, and the admiral human occupation which is true knowing." *Id.* at 19. Formal education and learned knowledge become foreign and unreal to us.

25. For an interesting and readable account of the possibility of "caring" in a technological world, see Robert Pirsig, *Zen and the Art of Motorcycle Maintenance* (New York, 1974). See also Nel Noddings, *Caring: A Feminine Approach to Ethics and Moral Education* (Berkeley and Los Angeles, Calif., 1984). In the following passage, Viktor Frankel has summarized the stance of an actualizing person in the face of meaninglessness and impotence.

Man, as the finite being he basically is, will never be able to free himself completely from the ties which bind him to the various realms wherein he is confronted by unalterable conditions. Nevertheless, there is always a certain residue of freedom left to his decisions. For within the limits—however restricted they may be—he can move freely; and only by this very stand which he takes toward whatever conditions he may face does he prove to be a truly human being. This holds true with regard to biological and psychological as well as sociological facts and factors. Social environment, hereditary endowment, and instinctual drives can limit the scope of man's freedom, but in themselves they can never totally blur the human capacity to take a stand toward all those conditions.

Viktor Frankel, *Psychotherapy and Existentialism: Selected Papers on Logo-Therapy* 59-60 (New York, 1967).

orientation to caring, we can see what students value and how caring works.

Notwithstanding the game playing, anxiety, boredom, cynicism, and alienation in legal education, many students emerge with a vision of a productive, fulfilling life in law, a life that can be devoted to helping others, solving problems, and gaining the respect and prestige that come from a professional life.

i

I have just completed one week and one day of legal education. I have absorbed more information this week than in the whole of last year.

I have so many thoughts and impressions floating around. I am excited, challenged by my classes and experiences. I really love what I am doing. High school and college were boring.

* * * *

I feel that I have an ability for law and intend to work hard to develop it. Self-respect at work and the respect of colleagues are an important part of job satisfaction. The important thing is to be able to do things that matter to people.

* * * *

I believe that a person can change and learn new things, new ways of looking at things, and still adapt these new changes in his old life, becoming a richer person. We all change and we must adapt. Anything we do changes us, only death is static.

I now stand at the vantage point of being nearly through my first semester. I think I have learned how to stand both inside and outside the law school environment, and hopefully the law as well. This is difficult to explain. We come to law school and are inundated with work, placed under great pressure and competition. I have enjoyed it immensely. But it goes beyond learning. The process is designed to change us, to mold us into lawyers. The change is good and necessary. They call it "thinking like a lawyer" and it is necessary to be a good lawyer. However, not to be aware of the changes while they are happening is frightening because others have control over you. They attempt to mold you to the Apollonian, lawyer model. We even come to accept injustice in a judicial decision as logical, even right.

The pressures are great, and easy to give in to. But by being both an insider and an outsider, I can value the changes while exercising control and subjecting them to my own judgment. In this way I combine an objective, authoritarian model of law with the subjective parts of myself from which I can make moral judgments.

* * * *

Rather than being submerged in the legal environment, I feel that I am involved.

ii

In law school you have a feeling of being. I am not really sure how you get it or who gives it to you, but you have a feeling of accomplishment, or at least you think that one day, you will accomplish something.

iii

We are so willing to sacrifice ourselves, our values—to become a person whose characteristics we are as yet unaware. The mere fact that we don't know where our professional development is leading us does not stop us from advancing full speed. Rather than harmlessly spinning our wheels, we are driving at breakneck speed over unfamiliar and dangerous roads. I fear there is no return.

iv

What must a person sacrifice to be a lawyer? While the physical sacrifices of school are demanding and perhaps necessary, it is a deeper sacrifice that I speak of now. It is a sacrifice of all he is for what he may be?

There seems to be a movement in law school toward falling into the narrow rut of "thinking like a lawyer." I have no desire to be radical, or different from the majority. It is simply that I want to be educated as a lawyer, but to think like myself. "Group think" is not appealing, and it is my hope that when I leave law school I will still be known as a person who is a lawyer instead of a lawyer who is a person.

I am willing to sacrifice for the end, but unwilling to sacrifice self. If one leaves law school as a lawyer but has sold himself to attain that end, he becomes nothing more than the end. Life becomes little more than a series of predetermined moves. I want to maintain the ability to face new dimensions, to seek new goals and ultimately this is more important than being a lawyer.

v

I am a person of extremes. Much like the "grotesque" characters of Sherwood Anderson's novels, I am inclined to select a euphonious truth I have experienced somewhere, take it out of the contextual relationships that made it true, and thereby make it false. A longing for something True, something Good, something Absolute, has been fostered, I think, by a Catholic education.

* * * *

A childhood and adolescent speech impediment contributed to my proneness to reflect on what I am like, why I live, and above all, who I am. I believe every act to be a conscious or unconscious addition to my identity. Born with a core of irreducible identity, our subsequent acts, whatever their origin, which remain forever mysterious, form the identity that we know. Michael Novak writes: "We don't know who we are; hence, much of what we do has a revelatory impact."

* * * *

I'm not a law student who "always wanted to be a lawyer." On the contrary, it is indeed remarkable that I am in law school. At one time, I had truly resigned myself to a life of mute privation. Eventually, I "exorcised" the demon, although it reappears. Now, I am in control. Whatever doubt I had about law school in regard to my ability to communicate is gone. It is poetic justice that I am going to be a lawyer.

But there are other reasons why I doubt the propriety of becoming a lawyer. These reasons are more idealistic and intellectual than personal. I am convinced that in the next three years I will be trained to be a sophist, practicing clever but specious reasoning in advancement of persons or causes in which I do not believe. To paraphrase *Zen and the Art of Motorcycle Maintenance*, I must ask, are we in American professional education supposed to just fake this search for the truth, this search that is the very root of our university system? Are we really only meant to hunt for truth within a limited, provincial context? What is the alternative?

I find it amusing that legal education extols the Socratic method. Socrates would shake his head in disbelief. The Socratic (more correctly, Platonic) method, the dialectic, is a method of learning whereby layers of illusion are peeled away by serious, sincere dialogue oriented towards Truth.

Legal education draws many whose intentions are totally self-centered. Lawyers exhibit some of the most distasteful of human qualities: deceit and avarice. One may properly ask, "Why are you in law school if you feel this way about the profession you may soon enter?" Our capacity for self-deception has no known limits. I have persuaded myself that if I can keep my own soul in order, if I can maintain values independent of the those I am exposed to, I will live right. In other words, I don't have to avoid law school as long as I know what is really true about the human condition.

All of this reinforces my suspicion that I may not practice law at all, but merely use the degree I will receive as a springboard to other pursuits. Despite the condescending tone, I must admit: Law school is a source of self-esteem, "the dominant motive of man."

* * * *

I feel strangely content with my life situation tonight. This worries me to a degree, since I have come to believe that only a sense of detached alienation or angst signifies a healthy mind. I worry about myself when I feel happy. Obviously, this can be disconcerting at times. But it seems to me that being happy with worldly existence is tantamount to an affirmation of all that is in the world and all that it represents. Dostoevsky writes in *Crime and Punishment* that "He lives most happily who knows best how to deceive himself." Law school, and all it entails, leads to satisfaction with oneself. One works hard, develops gratifying relationships (at times) with sensitive, intelligent people, and one feels an undeserved sense of superiority when one compares one's life situations with others. Are these feelings of contentment faithful to what it means to be a human being?

The goals and imperative of law school do not coincide with being faithful to the human condition. In law school I will be continually reminded and assured of the propriety of our society, its culture and institutions. Instead of recognizing our society and culture for what it is, the chief purveyor of illusions about our humanity, I will be told of the ways to ensure, through law, the continuity of this mass of illusions, myths, and deceptions we call society.

* * * *

Sardonic, supercilious, and snobbish. Is that the way I come across? I sincerely hope not. My misgivings are real. I intend to do well academically because I want to learn what it means to be a lawyer, by infiltrating the ranks of the enemy. I must learn a perspective before I can criticize it effectively. My only fear is that I will like being a lawyer. I am suspicious.

* * * *

My first impressions of law are rather hazy. By its nature, law adheres closely to what resembles ethical relativism. As between principled and situational ethics, law chooses the latter. Remedies (ethical solutions) are chosen because they best fit a case under certain circumstances. Rarely is a hard and fast, iron-clad rule applied.

* * * *

The United States is based on individualism, a fundamental erroneous conception of mankind. Law reinforces this individualism. The reality of American society is an agglomeration of privatized, fragmented atoms, each pursuing their own lights according to their own conception of goodness, without regard to the human need for community which overcomes separateness. Our legal system supports the privatized, individualized lifestyles we have.

Law deals with the particular, not the general; the relative, not the absolute; self-freedom, not community. We like to believe (or are told to believe) that the hallmark of America is freedom. But there can be no true freedom in a society which reinforces self-indulgent individualism.

* * * *

I hope I never lose the ability or the desire to identify and call into question the assumptions I have about my life. Being able to critically appraise oneself is talent that does not shut the door to change.

In law school I feel it important to preserve this ability. Law school is one of the more subtle forms of manipulation. Manipulation is the opposite of education. Education should be a search for the truth for ourselves. It should not be high-class technical vocational training, as law school seems to be. Even philosophy, as it is taught at most American universities, is little more than instructional tinker-toys.

The values of our economic system, for God's sake, now inform the values of our educational system. I recall conversations with other students in my undergraduate days: "What is your major?" "Business Administration." My unspoken response was "My God! That's education?" Forming into a scientific method the custom of screwing people financially en masse by way of capitalism. After four years, a degree is conferred, a student is patted on the back, and swept up by effusive self-congratulatory contagion. But what has been done? The diploma fools you. While the student was learning to statistically project pricing schedules or the intricacies of profit maximization and other equally dreary things the soul was deadened. Business and management degrees destroy one's ability to analyze oneself, to see who we really are, to see what it really means to be alive. Liberal arts may not provide definitive answers, but at least it provides the questions.

A professional education can be a time when things come together and begin to make sense.²⁶ It is possible to "find oneself," as one finds the knowledge and skills to do work that is socially significant (or at least thought to be). A student can be "pulled" into law. (Some, we would agree, are "shoved.") Law is a life that requires commitment. It can be a path, a realization of a way to care and value.

* * * *

I propose no theory to explain the nature of legal education or the full course of professional development. There is a substantial body of literature which looks carefully at the historical development of modern legal education and the traditional curriculum which is associated with professional legal training. While this literature is associated with information on how legal education got to be what it is, it fails in one important respect—it ignores students, their experience, hopes, and dreams, fears and failures, their experience of profound personal change. We need to take seriously everyday routines which structure reality and define a student's life world. Consequently, legal education is presented here as it is personally experienced, as individual students "see" it, "feel" it, and make it a part of their lives.

26. Who are these students and how do they avoid the myriad traps of law school? For a few, law school simply caps off an otherwise excellent academic career. In these cases the motivation and orientations can be traced to early educational experiences or family influences. Of more interest here are the students who, in law school, begin for the first time to find a place for themselves. For these few, the time and attention that the study of law claims is neither denied nor resisted. There is a crystallization of "something"—it is as if the mercury which has been spilled and scattered is now being swept up into one large mass.