media

ONE L *

by Scott Turow

New York: G. P. Putnam's Sons, 1977 ($8.95)

(also available, Penguin [paper] $2.95)

Why would anyone write "an inside account of life in the first year at Harvard Law School"? Who would be interested in reading such an account? Is the experience of a first-year law student deserving of book-length treatment? What can we learn from Scott Turow's journalistic account of his first year in law school?

Many of the readers of this review are law trained and consequently have experienced legal education first hand. While there are undoubtedly a host of memories of that experience and perhaps even a lingering "feeling tone" from those years, much of what occurred during our own law school experience is lost from memory. It is lost in another sense--in that our memory reconstructs an event with sufficent embellishments, additions, and deletions so that with the passage of years it is increasingly difficult to know what actually took place or how one felt about it at the time.

My first realization of how much I had lost of my personal law school experience came while I was watching the film Paper Chase. The film was based on the life and loves of a first-year law student. The classroom scenes of professor-student interactions were extremely evocative for

---

* James R. Elkins, College of Law, West Virginia University.

HeinOnline -- 3 ALSA F. 81 1978

me--in fact, quite painful. I realized that indeed I had suppressed those parts of my law school which were painful and unpleasant.

One of the reasons for reading One L might be to recover a fuller sense of our own experience of law school. Turow has considerable skill at presenting the drama (sometimes painful) of the law teacher-student encounter. Here is Turow's description of a first-day encounter in Contracts:

> "Mr. Karlin," Perini said, ambling toward my side of the room, "why don't you tell us about the case of Hurley v. Eddingfield?"
>
> Karlin already had his notebook open. His voice was quavering.
>
> "Plaintiff's intestate," he began. He got no further.
>
> "What does that mean?" Perini cried from across the room. He began marching fiercely up the aisle toward Karlin. "In-tes-tate," he said, "in-tes-tate. What is that? Something to do with the stomach? Is this an anatomy class, Mr. Karlin?" Perini's voice had become shrill with a note of open mockery and at the last word people burst out laughing, louder than at anything Perini had said before.
>
> He was only five or six feet from Karlin now. Karlin stared up at him and blinked and finally said, "No."
>
> "No, I didn't think so," Perini said. "What if the word was 'testate'? What would that be? Would we have moved from the stomach"--Perini waved a hand and there was more loud laughter when he leeringly asked his question--"elsewhere?"
>
> "I think," Karlin said weakly, "that if the word was 'testate' it would mean he had a will."
>
> "And 'intestate' that he didn't have a will. I see." Perini wagged his head. "And who is this 'he,' Mr. Karlin?"
>
> Karlin was silent. He shifted in his seat as Perini stared at him. Hands had shot up across the room. Perini called rapidly on two or three people who gave various names--Hurley, Eddingfield, the plaintiff. Finally someone said that the case didn't say.
>
> "The case doesn't say!" Perini cried, marching down the aisle. "The case does not say. Read the case. Read the case! Carefully!" He bent with each word, pointing a finger at the class. He stared fiercely into the crowd of students in the center of the room, then looked back at Karlin. "Do we really care who 'he' is, Mr. Karlin?"
>
> "Care?"
>
> "Does it make any difference to the outcome of the case?"
>
> "I don't think so."
>
> "Why not?"
>
> "Because he's dead."
>
> "He's dead!" Perini shouted. "Well, that's a load off of our minds. But there's one problem then,

HeinOnline -- 3 ALSA F. 82 1978

> Mr. Karlin. If he's dead, how did he file a lawsuit?"
>
> Karlin's face was still tight with fear, but he seemed to be gathering himself.
>
> "I thought it was the administrator who brought the suit,"
>
> "Ah!" said Perini, "the administrator. And what's an administrator? One of those types over in the Faculty Building?"
>
> It went on that way for a few more minutes, Perini striding through the room, shouting and pointing as he battered Karlin with questions, Karlin doing his best to provide answers. (53-54)

A second reason for reading One L would be to explore the nature of Perini's behavior and the student reaction to it. Why does this man behave this way in the classroom? And for what pedagogical purpose? Turow does not fully explore this phenomenon, but does question Perini's teaching style and his own reaction to it. Instead of Perini's style turning students off, it seemed to engage them; they actually seemed to enjoy Perini:

> What the hell went on here? I was thoroughly confused, the more so because despite my reservations the truth was that I had been gripped, even thrilled, by the class. Perini, for all the melodrama and intimidation, had been magnificent, electric, in full possession of himself and the students. The points he'd made had had a wonderful clarity and directness. (54)

Although seduced by the dramatic flair of Perini's style and recognizing that law teachers defend the Socratic method, Turow questions the impact of such teaching on first-year law students. The fear is that students "will come away with a tacit but ineradicable impression that it is somehow characteristically 'legal' to be heartless, to be brutal, and will carry that attitude with them into the execution of their professional tasks." (296)

A third reason for reading One L would be to explore the way students change in order to become members of the legal profession. What happens to a student during the emotionally intense first months of law school? To understand how one changes, there must be some view of an initial posture, stance, or position. It is in describing these first impressions,

HeinOnline -- 3 ALSA F. 83 1978

first classes, and his own feelings about them that Turow is at his best. We can almost recover our own sense of excitement of law study when Turow describes his elation: "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." (67)

The elation is offset, however, by strong dosages of frustration, anxiety, and fear. Turow, after his first weeks, felt "[h]arried, fearful, weary" and often "near to panic, a ferocious, grasping sense of uncertainty..." (59, 56) Law school for Turow became an "emotional merry-go-round." (67)

Turow's descriptive account of his own personal experience and what he reports of his colleagues' is enough to demonstrate that law school is a highly subjective, psychological experience. Law school teaches not only the cognitive skill of "thinking like a lawyer" but trains one to "feel like a lawyer."

As one of his classmates told him: "They're turning me into someone else... . They're making me different." (90)

Turow's classmates expressed this involuntary change in their feelings as a crisis. At this point in the narrative, Turow disavows sharing his classmates' crisis. While he recognizes that he is learning more than a process of analysis or a set of rules, he is less than clear about what that more might be. His concern moves him to see only that others feel "that they were being limited, harmed, by the education, forced to substitute dry 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." (92)

This then is the source of the private-professional dichotomy in our lives. The life of a law student requires the attainment of certain cognitive skills which may actually interfere with one's personal interaction with family, friends, and neighbors. As Turow puts it, thinking like a lawyer is "a grimly literal, linear, step-by-step process of thought" and seems to move one to be "suspicious and distrustful." (92, 93) You

HeinOnline -- 3 ALSA F. 84 1978

learn as a lawyer to believe nothing, to take no statement at face value. You question every premise in this "highly-structured problem-solving method." (93)

Turow, in these pages, seems to be dealing with the subtle complexity of what it means to become a lawyer. He posits the difficulties and the nature of the relationship that is desirable for him under these circumstances:

> [T]he 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. (93)

Turow at this stage sees the problem, but realizes that no solution is at hand. His questioning continues, when later, he takes a weekend off with his wife. Away from the piles of work and the law school he asks: "Achieve, succeed, do and be excellent. It was a kind of madness. What was going on? What the hell was I doing to myself?" (107)

As the semester progresses, further change takes place. The early "emotional merry-go-round" gives way to more personal interaction among students, development of regularized work habits, and familiarity with class routine. Of greater interest to me as a teacher is Turow's realization of his "affection" for a Torts teacher whom he had at first disliked. In his early need for certainty (56-58), he had been unable to see the value in the endless questions of torts by Professor William Zechman. While many of his classmates had become hopelessly bored by Zechman, Turow begins to respect him for confronting students with the fact that there are no more 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." (113)

Approximately halfway through the first semester, Turow's world seems to take on another hue. The early excitement and exhilaration has worn off; teachers have become known personalities and their performance from day to day anticipated. Turow's mood is now somber. "The

HeinOnline -- 3 ALSA F. 85 1978

initial strength and enthusiasm I'd 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." (115) In essence "the thrilling mystery of the law had started to dissolve." (116) The class itself appears "to take a sort of sullen grimness." (116)

From Turow's account, we can state with some conviction that law school is a transition period--a beginning, an ending--movement from one world to another. It is a time of change, movement, and flux--life is disrupted and unsettled. It is a rite of passage. Law students today need an understanding of the experience of being a law student and the process of becoming a lawyer. The question is how to manage this period of intense personal change. On this question, Turow offers no help.

It is difficult for the lay reader to judge Turow's experience or to evaluate what the experience might mean to the reader. Turow does not, except for scant references to his desire for accomplishment, share with us his reasons for beginning a study of law. There is no effort to determine or to reflect on the underlying motivations of those who undergo this journey. The investment of time and energy in keeping a journal would suggest a desire to delve into this fundamental question, yet such is apparently not the case; and no explanation is provided.

There are hints that Turow might have been trying to realize some purpose or value in studying law which did not emanate from the personal need of accomplishment. Early in the journal he sees a connection between law and his ability to understand everyday life. (59) Later he observes briefly that legal problems involve a "scrutiny of the most fundamental assumptions regarding the way we lived each day--the manner in which we treated each other... ." (222)

The question of motivation for Turow and others is only one of many questions that remain essentially unasked and unanswered by <u>One L</u>. What kind of expectations, goals, and images do students have upon entering law school? How do student expectations, goals, and images promote or obstruct learning law? What kinds of values do students have upon entering

HeinOnline -- 3 ALSA F. 86 1978

law school? Does being a lawyer satisfy important personal values? How are these values dealt with in the learning environment, within the institutional setting? These questions focus on the student and his/her subjective experience of law school--a focus largely ignored within legal education.

There has been little institutional response to the concerns and anxieties of beginning law students or to the generally recognized deficiencies in education that such student anxieties create. The response of law schools to sustained criticism has been to adhere to the traditional goal of legal education in producing ever-increasing numbers of trained, skilled lawyers. Law schools continue to ignore fundamental underlying values in law. Justice and fairness are relegated to seminar courses and are frequently ignored even there.

The ultimate paradox of a legal education is the polarity created between our "real" personal needs and the high "ideals" which CALL us to a VOCATION. For Turow, the struggle was to come to grips with his "shadow" side--his "greedy little monster." It was this aspect of his personality which pushed him to the success 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." (300) There is "that driven quest for prominence which brings us there, 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." (300)

Turow, driven to success and accomplishment as he is, recognizes at the end of his first year that law school should be more willing to move away from the existing paradigm 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." (297)

HeinOnline -- 3 ALSA F. 87 1978

What is Turow trying to say? What is he searching for in a study of law? What kind of "fundamental assumptions" have Turow and other law students made about the way we treat each other and the way we live? Do these fundamental assumptions effect the study of law? The practice of law? Should these assumptions be raised to conscious awareness during the process of legal education? If so, how would the assumptions be raised? More importantly, how would they be dealt with?

These questions and Turow's account in One L suggest that we must rethink the way future lawyers will be introduced to law. In addition to training in lawyering skills, law schools should provide an opportunity for the students to reflect on the meaning of their experience, the way that meaning connects to their own personal values, and the various ways that legal education and law obscure and stifle personal meaning, ideals, and values.

IN SEARCH OF THE PRIMITIVE: A CRITIQUE OF CIVILIZATION *

by Stanley Diamond

Foreword by Eric R. Wolf

New Brunswick, N.J.: Transaction (distributed by E. P. Dutton), 1974
xvi + 387 pp., notes, index
$14.95 (cloth), $3.95 (paper)

In Search of the Primitive is an important statement by a gifted anthropologist who has sought solace, strength, and nourishment by tapping some of the deepest, and thus most vital, humanistic roots of modern anthropology. The book should be of considerable value to a wide variety of scholars, beyond the confines of academic anthropology, who are united

---

* Stan Wilk, Department of Sociology and Anthropology, Lycoming College.

HeinOnline -- 3 ALSA F. 88 1978