

If you're not going to be a lawyer, what are you doing in law school?

by Jeff Greenfield

I don't remember when it first hit me. Maybe when I was dissecting *Hadley v. Baxendale*, trying to figure out who got the shaft. Maybe when we got to capital gains in taxation. All I remember is a voice, speaking with mystical clarity, saying, "Greenfield, if you do this for the rest of your life, you are going to go out of your mind."

Well, I didn't. I have never tried a case, drafted a will or written a brief. Which is fortunate, since I never took a bar exam either and thus have no license to practice law. Law degree and all, I am not now, nor have I ever been, nor do I intend to be, a lawyer.

This has some drawbacks. For example, it is highly unlikely that I will ever be nominated to the United States Supreme Court. But mostly, I like not being a lawyer. I like not putting on a jacket and tie to work, I like not helping rich people get richer and I like reading and talking and writing English.

But there is one thing I do not like. And that is having people say to me: "What? All that education and you're not using it? What a waste!"

No, it was not a waste. For all the boredom and occasional stupidities of legal study, law school was very much worth the time—even, or maybe especially, for somebody who realizes early in the game that he will never practice law.

First, there are some vocations for which law school is almost indispensable. Politics, for example. It was De Tocqueville (and even if it wasn't, who can prove it?) who observed that in America, every political and social problem sooner or later becomes a legal question. It's an accurate observation. The substantive part of politics—the part that's separate from street campaigning and alignments—is invariably wrapped up in a legal argument of one kind or another.

This is especially true when the kinds of political questions now being raised seek to challenge the power of major institutions—public and private. Does the country really have the right to draft its poorest, worst educated citizens? Does a housing authority have the power to wipe out a neighborhood to benefit mercantile enterprises? Do the laws that protect women by restricting their employment really protect them or do they discriminate against them? Can a corporation get rid of its waste in the air and water without paying for the cost of cleaning up those wastes? Can a high school student who wears bell-bottoms and distributes an "unauthorized" newspaper be summarily suspended or expelled?

It's tempting, maybe even inevitable, to use your ideology in answering these kinds of questions. But it doesn't get you very far. The only way politics works is to persuade other

people to look at an issue with a frame of reference—to wrench them out of one attitude and offer them a different one.

What does law school education have to do with these kinds of political questions? Plenty. The obvious way follows from the fact that people and institutions have their rights and powers expanded or restricted by laws; it is astonishing how helpful it is to have the simple ability to read legal language and translate it into English. But beyond this point, legal education forces you constantly to make distinctions and analogies. This case is different from that case and similar to a third case. Why? Because *this* fact is different and *that* fact is the same.

Maybe it sounds strange, but political discourse pivots on the ability to persuade people to make distinctions and equations in their own minds. It took three years before most Americans abandoned their support for the Vietnam War—support based predominantly on the notion that they had supported other wars and thus might as well go along with this one. Time after time, leaders in the antiwar movement hammered away at this equation. No, Vietnam was *not* World War II, Ho Chi Minh was *not* Hitler, Nguyen Cao Ky was *not* Winston Churchill. But the message finally got through.

Whether you're working on a community organizing project or taking part in a national debate, the ability to use the tool of analytic distinctions is critical. I know both as a listener to and writer of political speeches that much of it is flaccid, dishonest and hypocritical. But the best of it is grounded in a clear vision of what you are trying to make others see. And since so many people in law school have an interest in politics, it is worth pointing out that the very processes which seem most irrelevant—the incessant poring over of detail and ancient cases—provide unbeatable exercise.

(I remember one day when the Leaders of Tomorrow spent an entire hour trying to figure out what made a particular case special. A misplaced comma? Geography? No, it turned out to be the *date*. World War I had broken out right after the contract had been made, which meant that the seller could get 10 times the price for his goods. I don't remember anything else about the case—or about contracts, for that matter—but I never forgot the importance of minute details to important questions.)

Politics, however, is not the sum total of the human experience. But even if what you wind up doing is completely removed from the world of the law, the process of law school is almost inherently useful. I *don't* mean *what* you learn but *how* you learn it.

Take, as the ultimate example, the game between the

browbeating professor and the uncertain student. The pattern is ritualistic; the professor challenges virtually every statement made by the student, cuts him off, throws three irrelevant questions in the student's path, and, if the professor is having a particularly good day, reduces the student to the role of driveling idiot.

Some law students I've talked to regard this process as manipulative. Of course it is. It's manipulative in the same way that physical exercise is structured and demanding. But the payoff, I think, is enormous.

First, it's another lesson in making sure you know what you're talking about. When you know that an intense grilling is ahead, you just may make the extra effort to ask yourself every conceivable question about a case or dispute. Second, it's invaluable experience in thinking and talking on your feet. And I can't think of any area of work where that doesn't turn out to be an asset. Finally, despite the initial blows to the ego, this kind of classroom gladiatorial contest ultimately reinforces self-confidence. There is no greater pleasure in law school (at least during class hours) than knowing you know what you're talking about, and resisting the temptation to abandon a right answer for a wrong one.

None of this means that there aren't serious problems to staying in law school once you realize that law isn't for you. In the first place, the curriculum is not always the most stimulating. Creditor's rights may be inspiring, but not if you don't plan to be a creditor, or his hired gun. Then, too, there is the language problem. Lawyers and judges—and law school professors—usually do not write good or even bad English. They are too anxious to prove they have mastered the Magic Incantations of the trade.

So, perhaps the best idea for the future non-lawyer is to strike a compromise, by getting the most out of the process while it's still fresh and then gradually easing into the Real Life.

My own sense is really to plunge into law school for the first semester or the first year. And I mean go all the way. If the six-point type at the bottom of the case suggests three articles, look them up. Read them. (If nothing else, they're likely to lay out the black letter law faster than the casebook, which will give you a leg up and maybe a night off.) If a footnote refers to a related case, check it out. If you don't understand the case the first time, read it again. And

again. Buy one of those yellow phallic markers and underline every point of importance.

Despite some occupational hazards (pale skin, bloodshot eyes, a gamy aroma now and then), it will be time well spent. Because you will realize that for all the good marks or Phi Beta Kappa keys, almost nobody in college ever really demanded that you think and reason as hard and as well as you are able. Here, in fact, the very insanity of legal language helps this process. You have to unravel the threads of an argument piece by piece—and the complexity of the language forces you to do it slowly and carefully.

The same thing applies to moot court, which is terrifying to an astonishingly high number of first-year law students. It takes time, but the research and rehearsal is better than what happened to one friend of mine, who nervously locked his legs at the knees so he'd stand up straight. After 20 minutes, the circulation was cut off so badly that he fainted dead away in the middle of the argument.

Beyond the first year, it's a matter of choice. Some law schools have shaken up the curriculum enough so that the second and third years can actually be interesting. If not and especially if you're not bound for a law firm or practice, it's easy to get into whatever really interests you and stay in law school. If it's writing, write. If it's acting, use the university theater. If it's political organizing, go ahead. Because once you get the knack of "doing" legal thinking, it becomes almost second nature. It's like what the drunk who fell down the elevator shaft said, "That first step is a bitch."

My one other suggestion is to read a lot of novels in the last year of law school, especially people like O'Hara and Hemingway. Once law school is over, you will have to go back into the real world, and it helps to re-orient yourselves to people who say things in plain English.

I know there are times when the whole exercise seems fruitless. The first time you watch your colleagues put on three-piece suits for their Covington and Burling interviews, it can drive future laymen out of control. Stick with it, I implore you. If nothing else, it beats working.

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