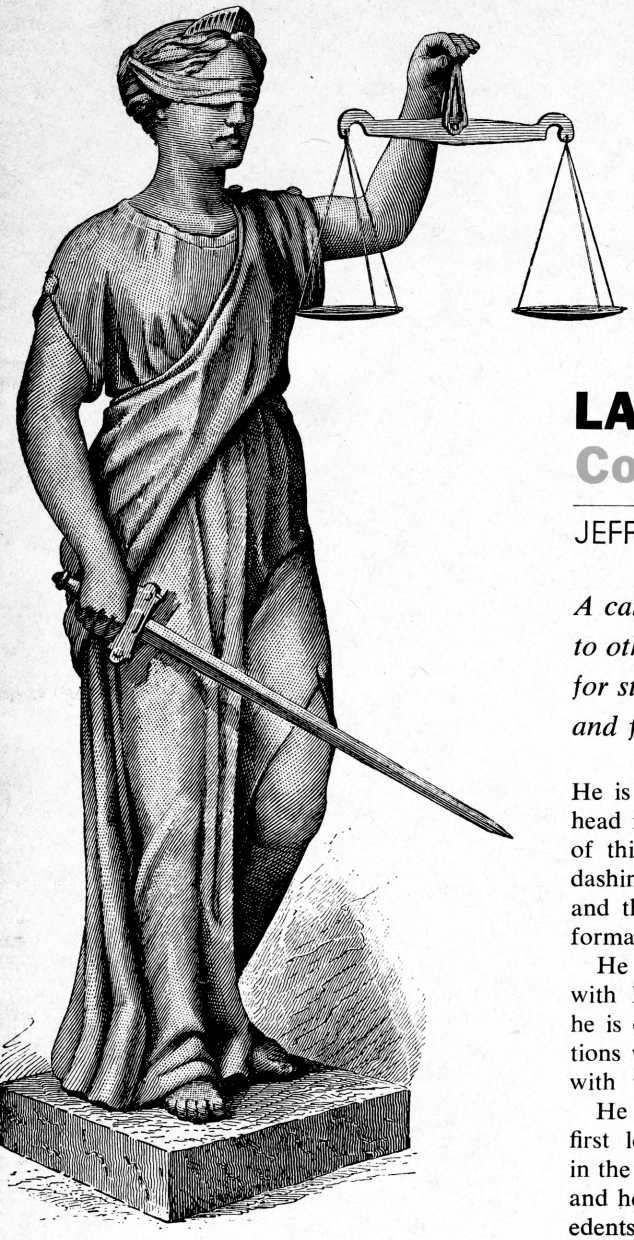

# LAW SCHOOL:
## Courting the Jealous Mistress

JEFF GREENFIELD

*A catch-all solution to some, a rigorous discipline to others, law school is the answer both for students who want to make good money and for those who want to make history.*

He is a bleary-eyed, unshaven, grimy head nestled in his arms over a stack of thick, dusty books; and he is the dashing young man with the tuxedo and the cocktail glass chatting at the formal ball.

He is talking and joking, at ease with his friends in the lounge; and he is carefully cultivating the associations which will pay off in the future with well-placed connections.

He is nervously working over his first legal memorandum at his desk in the huge glass tower on Wall Street; and he is searching for the legal precedents and arguments to set free a band of Negro demonstrators imprisoned in an Alabama jail.

He is the American law student. Perhaps more than most other young men, he is set down dead center between goals and values that demand choosing quickly, and which will shape his life. He is preparing to become part of the most difficult task a society has: the forming of the institution that governs the way men behave toward each other, and to their civilization. Moreover, he does so at a time when law is for the first time facing head-on the challenge of becoming a real instrument of justice instead of a preserve for the privileged. If he is confused, he may be forgiven.

For some there is no confusion, only the bright, unwavering goal of joining a profession whose average income trails only that of doctors and dentists, and whose members practicing in large firms earn a median income of $28,500. The giant Wall Street law practice, parental connections, the right schools, and friends and religion have all blazed a trail marked: "Affluence — Easy Road Ahead."

For others, the choice is not so easy. Law is a field which attracts many of the disaffected—those determined to fashion important and significant changes in the political and social fabric, who believe the law is the surest route to the levers of political power. This judgement is strikingly confirmed by the roster of senators, congressmen, and governors in the United States; more than half of them are lawyers. For the prospective politician or crusader, a first look at the Legal Establishment with its heady rewards can be an unsettling experience.

Often, though, law school serves as a sanctuary for the college graduate who simply does not know where he is going or what he wants to do.

"Law is the best thing when you just don't know what to do," observes Dick Prout, a senior at the University of Pennsylvania law school. "You really find all sorts of people . . . they come from every conceivable major."

Paul Wolken, working currently for the American Law Institute, agrees: "Most kids are uncertain after college as to what to do with themselves. Law school is a good background." But, he says, it's "not a catch-all. Most who go to law school want primarily to practice law."

Students do not use law school as a refuge from the draft, or marriage, or responsibility, says Penn Professor Curtis Reitz, although he recognizes that many who enter law school anticipate working in a wide variety of professions. "Once they're prepared for the profession it's hard to forget that training," he says.

This sense of vagueness about the goals of the entering student is a product of the legal profession itself. In a blunt answer to a *Moderator* questionnaire, several law students commented that "nothing can really prepare you for a legal education." Unlike medicine or engineering, there is no "pre-law" major. Philosophy, English, economics, political science—are all common "pre law" majors. One Harvard student credited his physics major with giving him the training in careful, rigorously logical thinking needed in studying the law. The best advice for the college student who wants to enter law school is to read and work widely in fields which cover the waterfront; narrow specialization is a sign that trouble lies ahead.

Admission, however, is not quite that easy. Competition for the half-dozen or so "prestige" "national" law schools (i.e., those that teach law, rather than the specific law of any state, and which attract high-calibre students from all over the country) is downright cut-throat. Entrance is determined almost exclusively by college grades and by performance on the Law School Admissions Test (LSAT), a six hour examination administered by the Educational Testing Service, which also handles the college boards. The test measures general aptitude, writing ability, and background knowledge. It is infinitely more pressure-ridden than the college boards because the career-minded young man realizes that this test will determine to a large extent his chance for admission to a top-grade law school, which is the best road to the awesomely affluent legal giants.

The standards for admission today are staggering. As a rule, roughly half of each entering class would not gain entrance to the succeeding class. (The median LSAT performance of the Yale Law class of 1968 was in the 97th percentile; similar averages prevail at Harvard, Columbia, and other highly competitive schools.) With as many as fifteen applicants for every opening, schools can concentrate only on high-ranking college graduates and still find the flexibility and diversity needed for a great student body. (This is not to say that all hope is lost. One dean of an outstanding school asked a student what he thought of an applicant.

"He's a little strange, sir," was the reply.

"*Strange?*" bellowed the dean. "He's nuttier than a fruitcake! Which is exactly why we're taking him.")

Entrance, however, is the easiest part of the job. The beginning student will find his undergraduate knowledge all but useless in learning the legal method. What is needed, rather, is an ability to read quickly, incisively, and carefully, and write with precision and clarity. These skills cannot be learned in any specific college curriculum.

"Where do you learn to read and write and think?" asked one student despairingly.

And where do you learn to talk, he might have added. "The first thing you should ask yourself is how much you like to hear yourself talk," urges Yale Professor Charles Reich. "You have to be talking and arguing."

The ability to talk—more accurately, the ability to think on your feet and express what you're thinking—is prized principally because of the unique law school classroom method. While many schools vary the approach, the essential element of legal study today is the "case method." In-

stead of memorizing a string of rules and exceptions, which are often contradictory and confusing, the student studies a series of cases which incorporate legal rules, and which also illustrate—sometimes strikingly—the confusions and contradictions which inhabit every phase of the law.

The class will read a case, and then dissect—often with minute care—the premises and reasoning behind the decision. No judge's reputation is too great to prevent a first year law class from enthusiastically ripping his decisions to shreds, and unmasking a bald political preference parading as a neutral legal principle.

The classroom often becomes, therefore an inquest into the law, with each student expected to have a good grounding in the facts and issues over the cases explored. Timidity, hesitancy, and inaccuracy are punished by healthy doses of sarcasm:

"Mr. Smith, state the facts in *Beaumont v. Fletcher.*"

"Yes, sir. Beaumont sued Fletcher for breaching a contract to deliver a gross of widgets to Beaumont's factory in Allentown . . ."

"Excuse me, Mr. Smith. Allow me to extend a helping hand as you sink into the bog of confusion. Do you not recall that Beaumont had signed a memorandum to the effect that the contract would have to be approved by Fletcher's agent?"

"Yes, sir, I was getting to that, but —"

"Mr. Smith, my point was that you were assuming a breach that had yet to be proved."

"No sir, I wasn't doing that, I was —"

"Passing the time of morning, perhaps?"

The law school grade is the Golden Calf, the oak leaf cluster, the silver star, and any other metaphor you care to use that means you've got it made. The grade is usually based entirely on one examination that covers either a semester's or a year's worth of study. Usually a series of hypothetical instances that involve a multiplicity of issues, the examinations require not knowledge of every case studied, but swift recognition of the issues involved, and the ability to write quickly and clearly about them.

The first examinations are without question as pressure-ridden an experience as education can offer. It is on this basis that the student learns for the first time where he stands in respect to his contemporaries—this at a time when he has no idea whether he knows it all or nothing, and when he has no idea of what his professors expect from him. More than one law school has witnessed the sight of a student ripping up his examination and bolting from the classroom in tears.

The biggest impact of grades is that they determine selection for the Law Reviews. Any law school worth its salt has this institution: a periodical entirely edited and managed, and partially written, by the students. Outstanding legal scholars regularly contribute to the Reviews, which take extensive, usually critical looks at the state of the law, and which occasionally are of great influence in bringing about important changes in the law.

Law Review, however, is not the only outside project of the law student. In most schools participation is required in Moot Court, an institution which pairs off students into opposing sides, and assigns them an intriguing or important case to argue before a mock appellate bench. The experience of facing three "judges" (robes and all) with no defense except a knowledge of the case and rhetorical ability is surely the last vestige of medieval trial by ordeal.

"If you think classroom recitation is tough, Moot Court will floor you," said a Yale graduate.

He was being more literal than he realized. Last year one hapless first year student, fearing nervous shuffling, locked his knees to stand firmly upright. After twenty minutes the loss of circulation got to him. He turned white and fainted dead away.

A similar exercise is provided at the trial level in many schools. Mock trials include outside judges and juries, witnesses, and the full regalia of the courtroom. (No mock trial has yet produced a courtroom confession, thus casting doubt on the veracity of either the mock trials or "Perry Mason.")

For the student who wants quick contact with the "real" world, there is ample opportunity for service. An adjunct of many schools is the Legal Aid and Public Defender programs, which help people in the community who cannot afford professional legal assistance. Students frequently represent clients in petty litigation, and several states have recently passed legislation permitting greater use of law students through the lower court systems.

The real world beckons in a quite different way as early as the start of a student's second year. During the fall, dozens of law firms converge on the "prestige" law schools and spend a day or two interviewing prospective summer and fulltime employees who have mimeographed resumes for the firms. The interview is, at least in part, a competition in the social graces. Applicants turn up almost invariably in three piece suits, sporting new haircuts and ties and a strangely quiet manner. The interview is a combination of idle chitchat ("You went to Fuzzwort, eh? Had a cousin who went there. Fine school, Fuzzwort"), a hasty and sketchy outline of the firm ("We're a diversified outfit; tax, estates, corporate practice"), and a common litany of financial offers ("we pay the going rate").

The summer clerk or new associate will spend much of his time exhaustively researching minute points for a

legal memorandum to his superior or for the preparation of a brief. Occasionally, a radically different experience is provided. In 1963 John Ely, a Yale student who spent the summer with Arnold, Fortas, and Porter (Fortas is now a Supreme Court justice), prepared much of the brief in *Gideon v. Wainwright,* a landmark case in which the Supreme Court held that every accused person has a Constitutional right to a lawyer whether or not he can afford one. It is safe to say that this is the exception, and not the rule.

Recently, a growing minority of law students have indicated a dissatisfaction with this career opening. Late in 1963, a group of law students back from a summer in the South got together to try to alleviate the desperate need for assistance on the part of the few southern lawyers willing to handle civil rights cases. The result was the formation of the Law Students Civil Rights Research Council, which quickly spread to thirty campuses and sent dozens of law students to the aid of both North and South. During the school year, participating students use the vastly superior library resources of their schools to research legal issues for attorneys, often on a deadline basis. More recently, the Council has expanded its scope, turning to problems of the poor and the bail system.

A common spirit of the participants was expressed by Howard Slater, one of the founders. "Law students seemed so preoccupied with success as measured in dollars, with the study of law as an academic game rather than as a tool for social justice."

This preoccupation is not difficult to trace. For the high-ranking law student in a top-flight school, offers from large firms which represent the richest corporate clients in the nation are, to put it mildly, enticing. Firms pay "the going rate"—a rapidly rising sum now near $8000, and this quickly increases. In a 1963 study by Daniel Cantor & Co., the median income of a Chicago lawyer with ten years of practice was reportedly almost $20,000; those in large firms nationally were closer to $30,000. The senior partners in the large firms all earn six-figure incomes.

Many members of the bar insist there is no conflict between social service and high-level legal work. "Lawyers have a high degree of social consciousness," the American Law Institute's Paul Wolken says. "They are involved with education and charity work; they give of their time without compensation frequently. They contribute to society and will continue to contribute."

The Cantor Survey confirmed Wolken's view, reporting that the average New York lawyer spent eighteen per cent of his work time on unpaid legal advice. Most lawyers are also involved in cultural or charity work, and are of course active in politics. Nonetheless, many law students do see a real conflict between the large firm and the "good works" field.

"Sure you can serve on museum boards and study groups," a Columbia grad said. "But try to defend some guy accused of a sex crime or a political radical and see how long you last in the Wall Street firm." Most large firms do not do criminal work, and associates tend, as a matter of habit if not pressure, to shy away from the unpopular defendant.

Almost every crucial issue in American history—from federalism to slavery to economic policy to civil rights—has sooner or later been battled out on the legal ramparts. It is safe to predict that the new challenges will all have their days in court, too. It is therefore encouraging that the law student in growing numbers is willing and eager to help resolve these issues, and that the American law schools are increasingly anxious to help them do it.

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