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One L by Scott Turow

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BOOK REVIEW

ONE L. BY SCOTT TUROW. New York: G.P. Putnam's Sons, 1977. Pp. 300. \$8.95

The author of this book has succeeded in writing a very readable and entertaining "inside account" of the first year of study at Harvard Law School. For anyone who has survived the first year of law school, Scott Turow's word-pictures will trigger a flood of memories. However, in describing all of the incidents and events that typically make up the first-year student's metamorphosis, he emphasizes, perhaps too much, the serious and painful aspects of the process, giving the impression that there is no enjoyment or amusement in it. Yet some of his vignettes are priceless. They have the ring of truth about them and may well go down in legal lore for future generations.

The general run of student reaction [to Socratic instruction] is most succinctly expressed in a comment I heard from David this summer, the day he showed me around the law school. He was kind of mimicking a tour guide, whining out facts and names as he took me from building to building. When he reached Langdell, he stood on the steps and lifted his hand toward the columns and the famous names of the law cut into the granite border beneath the roof.

"This is Langdell Hall," he said, "The biggest building on the law school campus. . . ."

The building is named for the late Christopher Columbus Langdell, who was dean of Harvard Law School in the late nineteenth century. Dean Langdell is best known as the inventor of the Socratic method."

David lowered his hand and looked sincerely at the building.

"May he rot in hell," David said.¹

Other experiences and issues described and discussed by Turow include the confrontation with fellow students as bright as one's self, the frustration of briefing the first case, grades, fear and intimidation in the classroom, indoctrination and alienation, the application of general rules to particular cases, competition, pressure, the Socratic method as a cheap way of

¹ S. TUROW, ONE L 40 (1977).

educating large numbers of pupils, Ralph Nader, blowing the practice exam, fear of failure, visiting the psychiatrist, reviewing old exams, issue spotting on exams, time limits on exam-taking, arbitrariness of grading, professors preening themselves in class, economics and the law, the Ames moot court competition, lying about grades, women and minorities, classroom humor, making law review, and signing up for second-year courses.

Turow's pleasant writing style (he was a creative writing instructor at Stanford who contracted to write this book before entering law school) makes this a fine book for laymen who like a good story as well as for prospective law students who would like a good idea of what they are in for. However, this book offers more than merely a pleasant, superficial narrative. Turow is trying to say something important about the present status of legal education. Although his points of view present some problems, which are discussed below, the most important thing about his book is not whether the criticisms and reflections are all valid, but that they have been made at all. ONE L's message is addressed not only to fellow members of the profession, but to the general public. Granting that Turow's descriptions are basically accurate, the profession cannot be smug about the portrait Turow paints for the outside world.

For better or for worse, I have tried in the immediate aftermath of that demanding, rewarding, turbulent year to produce a coherent account of what it feels like to go through it. I have written in the belief that the law, like any other field, is little more than the people who live it, and that lawyers—as well as the law they make and practice—are significantly affected by the way they were first received into the profession. If I am right about that, then the first-year experience should be of interest to everyone, for it bears on the law that bounds and guides our whole society.²

Three themes recur throughout Turow's narrative: (1) overcoming the "enemy" within himself, *i.e.*, himself as he faces and overcomes a new challenge; (2) describing a sense of the intellectual maturation achieved over nine months and the excitement in seeing such self-growth after such a period of

² *Id.* at 11.

anguish; and (3) dealing with the fear and loathing engendered by the tyranny of the Socratic method and by the intimidation practiced in class by some professors, and dealing with the overall psychological pressures imposed on beginning law students by the system itself.

Of the first theme, little needs to be said. Each first-year student comes to law school for different reasons, and each student's dealings with his own demon is an individual matter.

The second theme is brilliantly illustrated by the event described in the following passage:

I wondered when he would cut it out. There was no answer to these questions. There never would be.

I sat still for a second. Then I repeated what I'd just thought to myself: There were no answers. That was the point, the one Zechman—and some of the other professors, less tirelessly—had been trying to make for weeks. Rules are declared. But the theoretical dispute is never settled.³

Once having reached this insight, it is impossible, or nearly so, for the true intellectual to turn back. The lesson is thought to be fundamental to an adequate understanding of the law, and it is one of the most difficult insights for students to grasp. Some never do. For this insight alone, Turow's book can be recommended to beginning law students everywhere.

Two caveats are in order. One is that Turow offers a very truncated analysis of the intellectual and—more broadly speaking—"professional" development of a beginning law student. This is probably a necessity if one is to tell a story that is intelligible and interesting to a general audience. But focusing on the certainty problem in the way he does is an oversimplification which obscures both the actual pain encountered when one attempts to master the multitude of lessons that are found in a complex intellectual discipline (as opposed, for example, to the sense of pain or apprehension one feels when faced with a difficult examination), and the multitude of other lessons themselves which are found in the study of law. Among the most difficult "lessons" for students to grasp in the first year, and hence among the most delightful discoveries are:

1. reasoning "inductively" from individual cases to

³ *Id.* at 112-13.

broader principles (rather than deducing answers from general rules);

2. looking for the purpose behind a rule or at the consequences of a particular decision rather than the bare "letter of the law;"

3. using language functionally and precisely;

4. reasoning by analogy;

5. understanding the role of precedent in a common-law system. Of course, there are many more. This reviewer's most vivid intellectual experience in law school was to see the way the inductive method is used, a way that is directly contrary to the understanding of the law held by most lay people. Turow does not go into any of these many other lessons in the depth that this reviewer, at least, would have liked.

Caveat two is that Turow, once realizing that there are "no answers," falls victim to an age-old academic disease that overly affects all too many of us in law school from time to time: "intellectual romanticism" or "ivory-towerism." The disease seems to affect elitist schools more vigorously than others (if bar exam results are any measure) and it is perhaps unfair to expect a law student who has not yet experienced practice to deal with the issue. There is no substitute for a knowledge of certain fundamentals such as knowing how to draft a simple will or to write a motion. A significant part of legal training, even in the first year, does deal with these practical, non-theoretical problems that have clear, objective answers. It is probable that a first-year law student does not yet realize the practical facet of the theory he or she has learned. However, obscuring this practical aspect results in an inaccurate picture of what law school is or should be about. It is quite possible that law schools are not doing their job in this area, if recent criticisms by President Carter and Chief Justice Burger are correct, but that is another matter.

Turow's third recurring theme, which he terms the "brutality rap," is probably the dominant theme of the book. The best illustration of law school brutality is described as the "Incident," wherein the villain of ONE L, Professor Perini (clearly of the "old-school"), berated a student in Turow's section for answering "unprepared" without having first turned in a note before class (as required by Perini's rules). The fictitious Professor Perini's display of fire and hatred disturbed a number

of students in the section (including Turow) who then proceeded to sign a private letter of protest to Perini. This minor scandal eventually found its way into a story in a local Boston newspaper, greatly embarrassing Perini as well as those students involved.

The "Incident" is based on an actual occurrence during Turow's first year at Harvard, and one must surmise that Perini's manner and bearing were indeed horrible to behold because his words, as Turow relates them, do not seem *that* unusual in the context of first-year law school. Nevertheless, Turow's statement against the intimidation and belittling of students and against the general atmosphere of fear (engendered in part by the relentlessness of competition) must be given respectful consideration by anyone seriously interested in the well-being of law students and legal education. As Turow succinctly puts it:

I began to read in the extensive psychological literature about law school and was reassured to learn that my bad spell was hardly unique. "I have never seen more manifest anxieties in a group of persons under 'normal' circumstances than is visible in first-year law students," one psychiatrist had written.

. . . .

"I keep running into Harvard Law School graduates, people of all ages, who tell me that 'court held no fear' for them. A lot of them are men who fought in World War II or Korea or Vietnam, and most say that even having had those experiences, they never felt as scared or oppressed as they did when they were law students at Harvard; and that afterwards, by comparison, their anxiety about going into a courtroom for the first time was nothing.

"Well, I'm glad if we can prepare our students so that they feel self-confident about performing their professional tasks. But it doesn't fill me with pride to be part of an institution that has provided so many people with the worst times of their lives. I don't think that's an affirmative thing to say about this law school. I think there has to be something wrong with a place like that."⁴

His argument is impressive if for no other reason than that it is presented and crystallized through the prism of his own indi-

⁴ *Id.* at 168, 169.

vidual experience: the first major attack on traditional law school behavior—that this reviewer knows about—constructed from this vantage point.

Turow's conclusions and his reflective judgment of the implications of his own experience are strikingly similar to the position advanced by Duncan Kennedy (now a professor at Harvard) in his landmark 1970 article:

It seems inherently unlikely that a more human atmosphere at the Yale Law School would deprive the nation in any significant way.

. . . .

. . . The one thing that is clear is that the analytical capacity of many students is far, far greater outside class than it is in. If our minds are really being "honed" it seems clear to me that it's happening in the library, or in conversations with other students, or very occasionally with teachers out of class, and always under the terrific handicap created by an oppressive emotional atmosphere.⁵

Kennedy's call for more humaneness is, however, fashioned as an intuitive think-piece, a "polemic" as he calls it. Turow presents graphic examples.⁶

This reviewer was particularly struck by the fact that both Turow and Kennedy (who also wrote as a student) seem to fall in the category of dissatisfied rather than alienated students.⁷ Both want to reform, not tear down. Kennedy "admitted" his liberalism, as opposed to radicalism, in his article.⁸ Turow, it seems, largely accepts what has happened to him as a law student and accepts the "system" as a whole. One can certainly conceive of societies where virtually no legal profession exists (the People's Republic of China is a good example), and such a society is perhaps the unspoken goal of those who can be described as totally alienated. But if one accepts the structure of the legal profession as it exists in this country today, no

⁵ Kennedy, *How the Law School Fails: A Polemic*, 1 YALE REV. L. AND SOC. ACT. 71, 83 (1970).

⁶ T.L. SHAFFER AND R.S. REDMOUNT, *LAWYERS, LAW STUDENTS AND PEOPLE* (1977), presents an empirical study of this and other interesting law school problems.

⁷ Paul D. Corrington and James J. Conley have categorized law students according to the responses they gave to their questionnaires in *The Alienation of Law Students*, 75 MICH. L. REV. 887 (1977).

⁸ Kennedy, *supra* note 5, at 83.

matter how many substantive reforms one would like to see, the reform that Turow and Kennedy advocate seems to contain inherent contradictions, hence undesirable consequences, if accepted without qualification.

This reviewer's favorite defense of the old order was written some years ago by W. Barton Leach in a tribute to Professor "Bull" Warren. Leach wrote:

Bull Warren scared the hell out of his first year students. The first and last commandment of Property I was "Thou shalt think straight." The transgressor was justly treated. Twice, even thrice, he was given the chance to retrieve himself, but when he failed the thunderbolt struck—except in those rare moments of Olympian self-restraint when The Bull, with apoplexy visibly threatening, would turn away as from something found under a flat stone and seek out a student in another part of the room.

It was The Bull's justice that hurt. The student who took a verbal caning knew he deserved it, that he should have avoided it, and that any other student would have received the same treatment. As one of them said, "Sure, he treated me like a fool but not until he had convinced me that I was."

I believe that the effect on most men was good. In my own case, I am sure of it. . . .

. . . If, at the age of 21 or 22, a young man can be thrown off balance by harsh words known to be constructively intended, he ought seriously to consider whether he has the temperament to engage in a profession whose members offer themselves to the public as general trouble shooters and whose court-room traditions still savor trial by combat.⁹

There is no question but that a good deal of the role of the classic legal instructor was that of a hazing master or sergeant in boot camp. Some public testing of the neophyte is unavoidable given the highly competitive nature of the profession and the need to have lawyers who fearlessly represent their clients' legitimate interests. In short, Turow whines a little too much, particularly in light of these broad considerations. A slightly thicker skin, instead of "reform," would perhaps be more useful to the lawyers we train today. Moreover, if present criticisms of the profession, concerning incompetence, corruption,

⁹ W.B. Leach, *Look Well to the Right*. . . , 58 HARV. L. REV. 1137 (1945).

procrastination, and lack of ethical standards, are at all valid, it is at least arguable that what is needed is a higher degree of Spartan training rather than a lesser degree.

There is a hard-to-define line regarding human decency, fairness, and composure that exists between a law teacher and his or her students—a line that a professor should never cross. The Perini character in Turow's book crossed that line. Certainly, a teacher ought never to belittle a student or, in Kantian terms, treat him or her as a means to vent personal frustrations or assuage personal needs. Although the line is hard to draw, the profession and the students have every right to expect law professors to be astute enough to recognize it. Occasionally, an intentional loss of temper in class is justified if one knows one's students well enough to recognize a student wasting his or her own talents—"slacking-off" in common parlance. Since some people are only motivated by fear or embarrassment, a teacher may well, not unlike a good baseball manager, have the obligation to gently prod certain individuals at times, varying the strategy to suit individual needs.

It is strange and sad that there is comparatively little written about methodology in legal education. Turow's book is an important and enjoyable contribution. Read it!

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