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This is a talk for first year students. It's really directed at a subset of first year students: those who start out with some sense that they are going to law school because they want to do a lot of good for somebody other than themselves. At least that's part of their motivation. That is, this is a talk for people who are vaguely altruistic in their motivation, or vaguely left liberal, or radical, or hyper-radical. That's not everybody, obviously, by any means. But this is really an attempt to come to grips with some of the concerns that people in that situation seem to have in the beginning of law school.

The beginning of the story, at least as I experience people in this stage, is that they're incredibly ambivalent about the whole thing. They are incredibly ambivalent about being in law school, and also about what's happening to them from day to day. The ambivalence can be taken apart, to some extent. There are different modes of ambivalence depending upon where they're coming from and depending on other characteristics, though none of these archetypes describes everybody, by any means. A lot depends on whether you come at it thinking of yourself in the model of, sort of, the young Brandeis or the young Cardozo, which is a real image for a lot of women as well as a lot of men. It's the notion that I am going to be the champion of the oppressed through law, and my extraordinary skills at it are going to affirm it, as well as turning it in a good direction. And my goodness at it will be a gift to the people I am trying to help.

Then there is another quite different orientation, which is: I know it's shit, but I also know I have to know how to manipulate it. I am a cold, technically competent outsider, learning a skill, which can then be put to work for my people, the people I want to help on some level, as long as I don't let it take me over. So, rather than seeing yourself as affirming it by being good at it, you see yourself as subverting it by being good at it. Those are both quite possible ways to come at it. Both of them are likely to leave one feeling that it is an itchy situation that you're in, in the first month or two. In fact, an extremely itchy situation.

Among other things, although there are these reasons for doing it, there are others: the fact that your mother wants you to do it, your parents said you had a big mouth and ought to go to law school. There are a whole series of reasons like that, which are very powerful: other people thought you talked like, you know, a mouthpiece, which is an insult but also a suggestion that you might be a powerful person at it. And then there's likely to be some feeling, if you've done anything else before coming to law school, that that wasn't working. It could be that you're here because you didn't like doing it; it could be that it was ineffective. Maybe law school will make you happier and be a better way of doing it. These are things that might lure one on. But there is terrific danger. I mean, real, sort of nasty danger. One is that you are likely to start out with the feeling that the legal system is part of the enemy on some very basic levels. Even if you are going to be the young Brandeis or the young Cardozo, you have to begin by confronting this system before the young Brandeis or young Cardozo has transformed it, and affirmed it by being good at it and changing it. It's just what it always was and that's not good, and here you are entering it and sort of giving yourself up to it. The more political analysis you've got behind you, the more you're likely to be extremely

suspicious of this thing that you're now getting yourself intimately in relationship with. And if you've really got a big load of political analysis, you're likely to feel that the whole thing is about as suspect as it could possibly be. And you may very well believe that, seeing that you know you're doing a terrible thing, you must be doing it for a very bad motive, and that all this stuff about helping the people you might help is a rationalization you've invented to please the various people who are telling you that you should go to law school. That's likely to be a real doubt people have: whether or not they are here because they have decided to sell out, whether they are selling out just by being there.

Along with that, most people combine the sense that it is a bad scene with the sense that the fact that they got in, as well as their previous life histories, suggest that they are particularly skillful at this kind of evilness. Or at least might be. Or at least have some potential for it somewhere in other parts of their lives. That this kind of very bad behavior is something that is their bag, although they don't want it to be. They are the kind of person who is able to get good grades on the LSAT, at least fairly good grades, good grades in other circumstances. The kind of person who feels the urge to get out there and cut the throat of someone. This is not really altogether consistent with the political ideals, maybe, although maybe it is consistent with them. I mean, that's also a question. So it's threatening. It's both threatening because it's the enemy at some level, and it's threatening because it's an invitation to perform brilliantly in the ways which one has come to doubt most about one's self. To be good at doing things in ways that one has come to feel are not such good ways to do well.

Now that situation is compounded with a lot of very basic ignorance. There are a lot of things

that one doesn't know. If you know them already you have to be incredibly precocious. There are a lot of basic questions that you have no way of having a very strong opinion about. Some of them are questions about the system, the legal system itself, what it is. One basic question, if you start out with the idea that it's a pretty evil system, is: what is it about it that's so evil? Even if you have worked for a number of years in a context which shows you people being screwed by the legal system, it probably hasn't been clear to you, even in that setting, exactly what's going on. Why is it that people are being screwed? Somehow it isn't working out right. People that should have one thing happen to them are having something completely different happen to them. But there are a number of hypotheses, and it's hard to know which one is right.

One is that the judges are deliberately screwing them, that is, judges as a group. Another is that the judges are unconsciously screwing them, that they don't even know they're doing it. Another is that it's not so much the fault of the judges as it is that the rules are terribly unjust, and that the judges, whether consciously or unconsciously, are applying these very bad rules in a way which produces these awful outcomes. Another possibility is that neither the judges nor the rules are that bad in themselves, but that it is some larger, total economic, political, racial or sexual context that's making everything mess up. By the time one gets to be in one's twenties, one has run into situations in which one or another of all these different models of what's wrong has applied to one extent or another. One has encountered people who are personally bastards, and quite overtly unjust, and who have to be approached on the basis that they are evil people. You've encountered people who are unconsciously doing bad things, bad rule systems, and rule systems that are just not working

because of the total context. It's very hard to know what's really going on.

In fact, it would be sort of rash to reach a really strong conclusion in one's own mind, at the very beginning of law school, and, of course, for the legal system as a whole it's probably some mixture of all those things. What the proportion is probably makes quite a bit of difference, but how is one to find out? I don't think any of you have too good an idea - or can have that good an idea - whether going to law school can in fact help you help any one in any way. Or, can help you do anything in the way of furthering the goals of justice, which you couldn't do as well or better without going to law school. In other words, it's very problematic.

There may be some role-models you can think of who have done very well being lawyers. But, first of all, you have no reason to believe that you'll be able to do what they have done. And, second, it's very unclear whether you're even entering a career path which will ever allow you to do what they have done. So the situation is desperately uncertain, and this initial motivation, which you hope is an important one, which led you here (you hope it's not just opportunism, that there's something more to it) still hasn't been put to the test of actual life beyond the school system. It still hasn't been put to the test of the actual context of law practice. You don't really know what's going on in that context.

In this situation it's natural to be ambivalent. And it's natural to resist, to think that, if all went well, it would be possible to have at least a partial strategy of withholding yourself from the experience long enough to get some sense of what you've gotten yourselves into. In other words, a basic reaction for many, many students is to say that you don't know yet. "I certainly shouldn't

surrender myself wholeheartedly to this thing. I shouldn't just let it take me over. In fact, letting it take me over would be irresponsible, dangerous, very scary, and incredibly risky. I mean, that is just not the thing to do."

So there are these strategies on how to deal with the initial period. The most basic of these is to think to yourself things like, "I am somewhat different than most of the people. I am not going to be so competitive. I am not going to allow myself to be swept into it and become a jackal, the way I can see some other people around me clearly about to become jackals. I don't have the same stake in it, maybe." There are different ways of trying to establish some distance. All of them are very problematic. They are very risky in themselves. That is, it not only seems risky to give yourself up to the situation, but these strategies, these holding back strategies also seem risky.

But whether they're risky doesn't really matter because by this time most of you have begun to abandon them. Not everybody. But a lot of you have already begun to feel that it just won't wash, that it just doesn't cut it. It's a failure as a strategy. And there are various ways in which you're drawn in. Now, I do this professionally, so to speak, and I am very aware of the ways in which I try to do it. Some of them are really sinister, and some of them are quite innocent. Let me begin with some of the sinister ones. First of all, one knows, as a teacher of first year students, that the idea that you can begin a three year course, and maintain distance from the question of how well you're doing, I know that that's bullshit. Any teacher knows that the people who are most vigorously asserting that they are able to deal with that, are protesting too much. You can feel people worry about whether they are doing o.k. Your background is a background

that almost inevitably suggests that you ought to do well and that you can do well. However you choose to define it, the question is posed.

It's posed by the materials themselves, that you are studying. The materials are divided in two parts, from the emotional point of view. One part of the materials is unbearably dull, complicated, intricate, incomprehensible, confusing and long. It's designed to make you feel very, very much on the defensive as to why it's there, who gives a shit, and what it means. There's a whole layer of just puzzlement when you're confronted with it, and it's very difficult to fit it together. I mean it's just incredibly hard to figure out why anyone is asking you to learn it, and what you are supposed to do with it.

The fact that it's so hard to figure out would suggest that maybe you aren't doing it as well as you might be, because if you were, then you would know exactly...and so forth. And that begins to suggest to you that you'd better worry a little bit about how you're doing. And a basic way to figure that out is to find out if everyone else is having as much trouble as you're having, because if they are then you don't need to be quite so nervous about it. So let's find out how everyone else is reacting to it. Some people feel equally confused but some people feel less confused. Other people are clearly just hopelessly lost. Already you have hierarchy, and the hierarchy is beginning to get at you. You're already trying to figure out where you fit into it.

Meanwhile, we professors are giving you a lot of feedback about where you fit into it, in terms of degrees of wiped-outness. It's a very powerful initial strategy. It's making you give yourself to it. This is a demand posed by the dull stuff, which is also the most

incomprehensible stuff, that you surrender. We are posing the question to you how well can you do this, and we want you to try to see how well you can do it, and that means getting out there and trying to do it really well. And it's the nature of the beast that if two people are out there trying to do it really well, and both have already decided that, well, it means something, then we are really rolling, so to speak.

It's funny that there is a paradoxically opposite aspect of this process which is also important. Along with these incredibly dull materials, law teachers of all persuasions pepper the initial materials with stuff that is intended to drive you crazy In exactly the opposite way. That is, with cases .that are not incomprehensible, dull, boring, you know, endless, dreary, who gives a damn, but which just sort of leap off the page and say to you, "If you can pass this one by coolly you are a schmuck. You are an awful person." Somebody is doing something so awful to someone else and some judge, ideally, is participating in it with such evident relish, that we can say, "What a chance this is for us to show you what the system is really like."

That is exactly the opposite come-on. It's like MacLuhan's hot medium and cool medium. This medium-approach is to give you something violent and make you feel that you are dead if you remain distanced from it. You can't remain distanced from the boring stuff because that would show that you aren't even here. The hot stuff, if you remain distanced from that, that shows that you have already been wiped out and destroyed by the experience after a week. Law school has already blown your mind if you can't really get into a cold sweat about some of these cases. These cases are chosen to make you writhe. To make you feel just terrible.

This is an incredible double-barreled strategy. It is very difficult to resist it. Now there may be many of you who are able to resist it, but I doubt very much that that is the case. I have been doing it for 8 years. It's in the material. It's an aspect of the materials that they pull you both ways. The basic thing about this number is that the poles are absolutely contradictory. That is, the hot case there is saying to be human, to retain your sense of your dignity. Remember your threats: one threat was your joining the system, one threat was that by going to law school, you were going to lose your values. You were not going to be a decent human being any more. Now the hot case says to you, "Look it has already happened." It demands of you that you preserve your sense of yourself by responding to it in a passionate, direct, emotional way. By saying, "This stinks!" something like that. And, in fact, it's true that it's easy to select cases such that if you don't have that feeling you ought to feel badly.

But then the other cases are telling you the opposite. The other cases are telling you look, beneath even the dullest of these surface, the absolute no-sheen flat surface, there's got to be something, because there is lots of this stuff. If you want to get anywhere, you've obviously got to learn to get through that intricate and meaningless stuff to some secret language which has caused this to be included in the materials, and also caused that class discussion to proceed from that point to that other completely unrelated point, with the teacher saying, "thus . . . therefore . . . , " all the while. So on the one hand you are being urged to emote, and reaffirm, and on the other hand we are appealing to your fear that you are going to flunk.

The way to not flunk, the other materials suggest, is to give up emoting altogether. The

way to not flunk is to get into it as technique. The way to survive, given your fears about success, your sense of your own incompetence, the way to survive there is to react to it by saying, If I emote too hard, I am not going to be able to deal with it as technique.” Just as on the other side the feeling is, If I react to it, if I give myself to it as technique, when I get to the case where one person is doing something unbearable to the other person, then I will no longer be able to emote.” “Technique is simply going to destroy my soul on the one hand, and, on the other hand, my roiling emotions are going to destroy my ability to be a technically competent person.” This is . . . this is heavy shit. I think it’s quite real. I think you really do have to deal with it and that around now is sort of the point in the first year where maybe it begins to come to a head. I am beginning to get this in my Torts class now, more and more.

Now, one of the reasons why it’s such a difficult situation is that it actually contains a real grain of truth. There is some truth to the proposition that exposure, both in law school and after law school, to these progressions of unbearable fact situations will change your emotional reactions. It’s true, it’s even obvious and elementary, that you cannot go through years and years and years of dealing with those situations and maintain the freshness of your first reactions. And therefore there’s a sense in which this is the first step of a profoundly desensitizing, deradicalizing, deadening experience. I don’t think it’s psychologically conceivable, humanly imaginable, to retain that first impulse of pure and undiluted outrage. That’s just not the way life is. And that means it’s a desperate situation. If that sense of outrage has gone, and there is nothing else, then the worst fears that one might have about law school are completely realistic fears.

One of the things that happens then is that people begin to behave in strange ways. One is that they blame the teachers. Now as you can see from my description, it is totally unjustified to blame the teachers. Teachers are doing it on purpose, but it's not their fault. But teachers do get blamed and that's one of the things that happens. Another thing is that people begin to behave in really odd ways. You'll get this student who will one day demand that the experience be directly cathartic and emotive in response to the fact situation. And then you as a teacher will have, the next day, the experience of being brutally criticized because you don't have enough black letter content in your course. This has happened to me a trillion times. Sometimes it is the same student. I mean I have had the same student say to me within a single after-class discussion, at the beginning of the discussion, "you know I don't care if you aren't teaching me any black letter law. I don't mind. I like it that way." And then at the end of the after-class discussion say that she was really pissed off at me because she had to buy Prosser. To which I responded, "you didn't need to buy Prosser." I defend myself. My defenses, by now have become reflex. "I am teaching you more black letter law than anyone else in the law .school, and blah, blah, blah." It's all lies. You have to respond. You have this contradictory thing constantly coming at you and you have to have a patter, so you develop a patter to deal with it.

This won't last long. This feeling that you need both pure catharsis and pure technique is connected with the uncertainty that people feel about what the system is really like. If the worst fantasies that you had before law school about what the legal system is like are right, then it's true that the only thing you can do is emote in the face of the injustice of the system. But if you conclude that that's true, then it's also true that the situation, your situation is absolutely hopeless. Almost

no one holds those views for very long. If you really genuinely hold those views, you don't just drop out of law school, you drop out of everything. It means that the whole notion of coming to law school is defeated. If it's both true that things are that bad, and that there's absolutely nothing you can do about it, then obviously this was the wrong strategy.

People stay because they come to believe that there was something a little bit misleading about the initial set of reactions to the violently unjust case. That reaction of pure emotion is really only a beginning of coming to grips with whatever it is that's wrong with the system. That initial reaction turns out to be temporary. On the other hand, it gradually becomes clear that there is not a mystical, hidden technique. Many of you at present, I'm sure, still feel that competence means developing a capacity to sort of follow the thread of what the law requires, with incredible skill, and also deviousness and manipulative ability, but that it is nonetheless unmistakably legal logic that you're learning. It's true there's politics, and it's true that you may think of yourself as an emancipatedly political person. But you are now learning legal logic, that is, you are learning what the structure of legal system in some sense requires.

But that's bullshit. Your teachers now seem to be saying to you, "you must enter into legal reasoning and think like a lawyer, and so forth". But you are all probably misinterpreting that. You probably all believe, to one extent or another, that they are saying, "there is a system to generate results." But eventually they are going to begin to let you in on the secret, which is that there is no system to generate results. Although it's not true that everything is just raw, evil discretion, it's also true that nothing is mechanical at all.

This knowledge is a very terrible downer. As one begins to escape from the horrible contradiction into this vague middle mush, you won't experience it as liberation. You will experience the end of the sense that either it's all undiluted evil or it's all mechanical, but all you'll end up with is the sense that it's a little bit of one and a little bit of another. Sometimes the correct explanation of the decision is that the judge was actually bought, for, maybe, \$938 dollars, as the indictment showed. Sometimes the explanation is that the judge is a sexist pig. Sometimes the explanation is that the judge thought he was doing the best thing for black people, and had it backwards, and did the worst thing. Sometimes, it's: well, these were the best possible rules but the people just didn't have the power to put the thing through. I mean, there are a million different explanations. It turns out that all the things you thought in advance were all true.

Because they are all true to one extent or another, what you lose is the sense of the confrontation of different explanations. The contradiction relaxes its hold. By that time a very important thing will have happened. This tactic of leading you into the initial contradiction and then diffusing it, when it turns out that nothing is quite as stark as it first appeared, is part, as it's done by your teachers, of one of two larger strategies. There really are two strategies that use exactly the same set of initial setups: the combination of boring cases and desperate cases; the appeal to your desire to be competent; the direct appeal to your emotions; the constant thwarting of the two back and forth against each other. There are two different strategies that can lie behind that approach.

The traditional modern law school, the American law school since the 1930's has used

that approach as part of a fairly self-conscious general liberal strategy of socialization of lawyers. Now, it may not be immediately obvious why this educational setup functions as part of a liberal ideological method in the socialization process. Let me try to explain at least how I understand it. In the liberal conception, the law faculty is not trying to turn you into reactionary pigs, but it is trying to avoid your being radicals. It's trying to keep you in the general, liberal, center spectrum, from right liberal, vaguely, to left liberal, and to keep you within the general system of social controls created by the profession. The initial legal education experience functions to do that very successfully.

One way it does it, is by a series of horrible experiences of the intense emotional content of the cases set up against your desire to be competent. For most people, it does lead them to begin to defuse the cases. They are willing to trade in their initial reaction for competence, and given the way things are presented to them, they have to do that. That is, for example, in a large number of torts and contracts courses, the initial examples of horrible cases are set up so you protest in class and legal reasoning is then applied to your passionate protests. The teacher -elicits from some students cold legal reasoning responses that show the strong arguments that exist in favor of doing these absolutely emotionally outrageous things. That can be done with enormous skill because, among other things, the emotional reactions are very raw. They are just raw. In the rhetorical battle, the teacher's got all the cards. That can be pursued as a policy, step by step, over time, to convince you that to become a lawyer you must in fact renounce, to convince even people who think that it is of overwhelming significance to keep their reactions, that they must renounce.

On the other hand the teacher gives you enough emotional feed to destroy the impression that the system is a mechanical, rule-formalist operation where you put the facts in and crank out the result at the end. You are left with the sense that the whole system is malleable. That all the rules are to some extent up for grabs. That marginal adjustments can be made in all parts of the system. Nothing is graven in stone.

You have neither formalism, on the one hand, nor this raw, violent, “this is the way it is, it’s all like this,” on the other hand.

In fact, that message of liberal legal education is basically correct, at least as a response to the initial feeling, that everything is mechanical, and that there is such a thing as legal logic, and that learning legal logic is what you’re here for. That is just crap. It’s just not true. And the liberal message is also basically correct when it denies that the system is raw, unmediated, pure caprice, or pure power, or pure anything else. So the liberal position is very strong. What it does is, it offers you, as a way out of your contradictory emotions of revulsion and desire to be competent, a series of discrete problems. You’ll begin to get into this as the year continues. It will become the main mode of presentation which you’ll experience; and in the second and third years it just becomes the overwhelmingly dominant one. A series of problems. There are maybe 150 of them you will have to deal with in law school. They can be listed. They are the same everywhere. No matter what the ideological background of the school is, no matter what the form of the curriculum, almost all teachers use exactly the same problems.

They are doctrinal problems. They confront you almost always with a painful situation, a

painful social problem of some kind. A series of solutions are presented: answers and counter-answers, which involve a step-by-step, each-tub-on-its-own-bottom consideration of the pros and cons. There is no screaming and yelling but there is no mechanical formalism either. You take each problem as it arises. You enter into it; you get a chance to do something: there is analytic stuff, in which you are just figuring out how the facts work, what the doctrines are, good, solid, bottom-line, competent stuff. When you get through that, you get some policy discussion, which is the thrill around the edge, in which you can modify solutions, to some extent in one direction, and to some extent in another direction.

No one of the 150 problems will be connected in any overt way to any of the other 150 problems. They'll be presented to you as a series of tubs, a forest of tubs. You'll be out there walking around in the forest of tubs, and each one will look completely different from the one before. You'll get from that none of the things that you initially expected to get. You won't get a chance to do it through the legal system, nor will you get a chance to be a mechanically competent manipulator of a system of thought. You'll get instincts about how you argue pro and con on this series of discrete problems, one after the other. That's what you'll get, and that's very valuable. You cannot successfully practice law without a good deal of it. It's basically intuitive. It's a sense of what arguments can be offered in this type of situation vs. what arguments look ridiculous. To an enormous extent it's a question of convention, that is of the current conventions of the profession about what arguments on what subjects are within the bounds of discourse, and what arguments are outside the boundaries.

That—what I've just been describing—is a form of liberal intellectual socialization.

Of liberal ideological socialization to a role as a lawyer, which is the role of being a marginal adjuster of the system, within it. You are allowed strong political feeling. It's not apolitical or neutral. You're allowed strong feelings as long as you conceive of the thing in an incremental left or right way. And those are equally permissible within this approach. Each question must be seen "in its own terms," which means being pragmatic, or practical, or empirical, or oriented to "making things work," or oriented towards "solving problems" as they arise.

By the way I should say that this system is exactly equally hostile to right and left dogmatism, over-generalization, tendency to jump off the dock, fanaticism. The center liberal position is exactly equally passionate in its disapproval of Chicago School economics and of any kind of radical approach to thinking about law. It's not right wing. It's centrist, in American terms, with a good solid leeway-space in which you can experience some real autonomy about what you want to do about how things work.

That's the conceptual, ideological socialization. It goes along with an almost exactly . . . a homologous form of emotional or affective socialization to the system that you're entering into. First, both the image of the system as pure arbitrary power and the image of the system as mechanical dissolve into the mush of a thousand tubs, each on its own bottom. Then it's the same with the two emotional reactions. One is freaking out in the presence of this case, and feeling that anybody who could tolerate what this judge is doing is a pig and should be of fed. But then you flip from that to the feeling of just incredible intellectual insecurity, fear that you aren't learning it, that you are no good at it, that you're incompetent, that you'll ruin your

clients, that you won't pass the bar, that nobody's trying to teach you anything, they're just talking at you incomprehensibly.

These two emotional reactions also dissolve. Gradually you'll see that it's not really that hard. You can get by doing very little work. Any idiot can become minimally competent at it. You're going out into a highly stratified profession in which you are virtually certain to be fairly high up. Not way, way, way up, but certain not to be at the bottom of the status hierarchy. Your prior education, social class, and your Northeastern training guarantee you already that serious downward social mobility is not possible [laughter]. That is a realistic thing, and when people are worried about flunking an elemental competence, they worry about that. But you'll see, you'll come to see that that's not really what's at stake here.

On the other hand, you really will just stop having the initial reaction of pure outrage. For example, although I am very aware of this issue and although I am not, I don't think, a cretinous monster, I find it easy to talk about terrible torts problems, and make up torts hypotheticals on the spur of the moment in class which have that slightly ironic twist of awful fact situations, designed to simultaneously draw you in and slap you down, that it is so characteristic of the thing. I didn't feel that way in the beginning; I used to get freaked out by the fact situations. I've gotten over it. I think this is progress. I may be wrong. Just as you don't know whether you're selling out, needless to say I have no idea about myself. I think, I think it's progress not to be stunned into virtual paralysis by the horribleness of the facts. I think. But in any case, almost everybody in the role of law student comes to feel that.

So you'll neither feel so threatened on the competence front nor will you just be freaking out. At that point you will have opened to you a set of liberal, basically liberal emotional responses to the law school situation which correspond to the fading of this initial dichotomized reaction. One of them is a long grind attitude in which you accept that it's not as good I as you thought it would be nor as bad as you fantasized it would be. You see the 150 tubs, each on its bottom, ahead of you like an obstacle course, and you decide to jump over each of them in whatever order they are specified, starting with one and ending with 150, at which point you will receive your degree. One can do that. Legal education is sufficiently vacuous at this point so you can do that with very little emotional investment. Much less than even than those of you who are holding back as hard as You can are now putting into it. That is, those of you who are most successfully spending all of your time playing pool will be able to play a lot more pool in the second and third years, and do absolutely, mediocrily fine and get your degrees.

You can only manage that if you really do sort of cauterize it off fairly sharply. You have to say to yourself fairly clearly that these competence fantasies, and these power-freedom-rage-destruction fantasies are both a thing of the past. You might even do some outside non-,degalactivity to accomplish the kind of altruistic or left thing that you originally went to law school to do. That would be a perfectly feasible response. And, by the way, that doesn't make you a monster. That is not beyond any moral pale. If you pick a good activity and do well at it, you may do as much, in your off-hours from a desultory course, of law study, as you would do by trying to find some way of incorporating that into your work. That's, if you like, the first step towards a fairly clean work-place/home-life or official-role/unofficial-

role split. It's the solution of people who work very hard during the day and have alternative lifestyles after 5 clock.

By the way, the first form of this schizophrenia occurs during interviews. It's probably going on to some extent already. You see these odd people who are dressed completely differently one day than the next. They are experimenting with what it would be like to be a shit of this type. So that's a mode. Again, I am not trying to scare the shit out of you. First of all, it's not in any sense necessary, and, second of all, it's really a cheap shot to put it down. It has variants in which people do wonderful things. Within it, it's possible to do very good things. It's limiting. It doesn't correspond to what one would like. I think. For most people, in the beginning, if they think of this as the end of the process, it isn't really what they were thinking of.

Then there is another kind of reaction which is possible, which is to take the emotional reaction and give it the minimal intellectual content which will excuse you for not becoming too competent. That is often associated with very, very simple forms of instrumental marxism. That, is with an analysis which simply equates the judicial process with the state, and the state with a tiny committee of the ruling class, which is imagined to care about what happens to every sparrow in its flight, so that there is a kind of malign central intelligence controlling, for evil purposes, every decision.

That, by the way, takes a great deal of work. As you'll see. Another thing that the liberal materials are designed to demonstrate to you is the utter irrelevance of most of what

you're learning to primitive theories of class domination. You have to be a very sophisticated consciousness theorist to be able to link up most of the things that you're going to be studying to easy theories of the hegemonic economic function of law. One of the paradoxes of this form of withdrawal is that to maintain it you have to run very, very fast to keep in the same place. You're going to have to explain, in terms of ruling class interests, a decision that when an uncle promises his nephew to pay him \$2,000 if he doesn't smoke or drink until the age of 21, there is no consideration, and in fact the uncle doesn't have to pay. You can do it. I have seen people do it I have even done some of it myself. For this one, it has been a long time since I've tried it. I'm not sure I can do it. But you can turn this decision into the lynch pin of monopoly capitalism. Pull it out and it just goes down the tubes. That is possible, but let me tell you it is work, it is really work and I think it is just completely not worth it. There you will be, day after day, confronted with the choice of just ignoring the case, or working up one of these explanations.

It's a mode. Like the other mode, it has its element of truth. There might be a passionate argument between this person-- with his extraordinary ptolemaic system, with epicycles and wheels within wheels to turn the case into an economic-interest-of-the ruling-clique case confronting the person who has surrendered to "every tub on its bottom, 150 tubs, and all I see is the next tub." As between those two, there is a good argument that the ptolemaic system person is in a better position. They may actually have a larger hunk of reality still clinging to them, through that interpretation, than one gets by just giving up and doing the thing mechanically.

There's a legal hippie number that can be incorporated into the instrumental marxist

number. It's a neat combination. Beside the sheer intellectual pleasure of devising these explanations of why cases come out the way they do, there is also the pleasure of being able to 4pater les bourgeois and to spit in the face of your conventional, money grubbing, boring, sick, competitive, dull fellow students. There is something to be said for that too. But it requires a person who adopts that strategy to really objectify and project and sort of put down this mass of other people, right there, who are maybe not in fact that different. It's a cruel strategy. In many ways it's a very cruel strategy. It can be seen as an adequate, a fairly honestly cruel response to the idiocy of the alternative solution. But I'm appealing to you not to adopt it. I think in many ways it's not so good. It's got a lot of drawbacks.

These are emotional solutions that fit the intellectual system presented. That is, you'll end up with a group of people who are quite convinced, as they were when they came, that something is terribly wrong. But they have been both intellectually and emotionally confused about dealing with it, confused by the structure of law study that they've been through over the course of the first year and then on to the second and third. The way it's arranged really does have the impact of leaving you apparently torn between these inadequate understandings of the system and between these inadequate emotional responses to it. If you try to learn it as technique, you've lost your soul. If you keep on reacting you can't enter into it enough to become competent. The argument goes around in a circle. All the options appear to be blocked. And that might be the end of my talk.

But I do have one other thing to say, which is this: To some extent, this difficulty, this really extreme difficulty, which one has to live, since there is no way to avoid it, there's

no out, this dilemma is an artifact. It's just a form of the system that supposedly one is against in the first place. It's just the same thing again. But one doesn't experience it quite that way, although one ought to. I think for a reason something like this: many people, most people when they set out to go to law school are thinking in some terms like, "I am going to use my life to get myself some minimum, fair, expected level of goodies for myself, and also be an altruistic person doing something serious for other people. In that program, I am looking for a way to be effective as an instrument of my goals, which are partly personal goals and partly other directed, social ones."

What this system does is to try to convince you that if you had fantasies of great power, a kind of fantasy of omnipotence by sacrificing yourself, of becoming a paladin of justice, that you can't really do it through this route. Law school seems for most people to answer negatively saying, "that fantasy can't be realized." Myself, I think at that moment one has to reconsider the fantasy, and the conception of oneself as setting out with personal goals and social goals, trying to achieve the most effective, you know, efficient way of maximizing oneself as an instrument of one's goals.

This is something which is difficult to express in a way which doesn't sound awful, but I don't think it is awful. One has to re-conceive one's own life as a student as a meaningful aspect of the general struggle that you think of yourself as being involved in. That is, you are not here training for a struggle you are going to go out into. If you look at it that way, you've lost before you've started. The only way to understand it, I think, is to confront this as a true dilemma, a true dilemma of life in our form of society. The true dilemma is the dilemma of one's apparent impotence, and it's the very dilemma that brought most of you to law school. Life in law school

reproduces the dilemmas of the outside world that bring one to law school. It's a mistake to say "well, that just shows I was right in my worse feelings from the beginning, that just shows the whole thing is no good, it's impossible." Why come in the first place, if one's going to react that way to what is, after all, not that surprising? It's just that things are no different here than they were, say, when you were doing some kind of tenant organizing, or working on some legislative committee, or going to college, or tutoring somebody. I mean, it's not any different.

The problem is that the young left, the young, idealistic portion of the left, is brought up to think of themselves as possibly unproblematic servants of a good ideal. But in fact the problem of "What to do?" permeates every aspect of life in all the institutions one participates in while one prepares to go out and do that thing. And if you can't answer the problem at all within the institution where you find yourself, then it's going to be difficult to answer it on the outside. This is a last occasion to work on it. It is an occasion to continue to work on it, to extend one's political education, to try to find out in this relatively safe institutional context, what it would mean to be a radical, what it would mean to have utopian views about how things should be redone, and to act on them. By which I mean, not shooting all the judges who reach bad decisions, but figuring out how you could be educated right here, to go out into the world, after getting your legal degree, without being wasted by this structure of liberal rat mazes that drive people crazy. What I'm basically saying is, "gee, it's not that hopeless, it is possible to, sort of, see it as a bad situation, but there is something that can be done about it." Unfortunately, at this stage, it's very difficult to talk about what can be done about it because the main thing you have to do about it is crank along through a few more phases of learning a lot more about the system so you'll know what to

criticize. But it's not too early to say to yourself, very systematically, day after day, just, "how ought this to be done differently?" and to argue among yourselves and with your teachers about how it might be done differently, taking that seriously as a proposition. As though it were thinkable that the whole system could be transformed. As though it were thinkable that the system were something that could be made radically different. That I think changes the experience of it. In the early phases, the main thing one can say is that you have to not let yourself be overwhelmed by your own contradictory emotions, because they are going to diffuse. There's this danger that the diffusion of the contradictory emotions will leave you in a sort of neutralized, mild, center—a not-hopeful, not-hopeless position, unable to do anything. It's not too early to begin thinking what forms of organization you might engage in that would allow you to avoid that outcome. Now I'll stop.