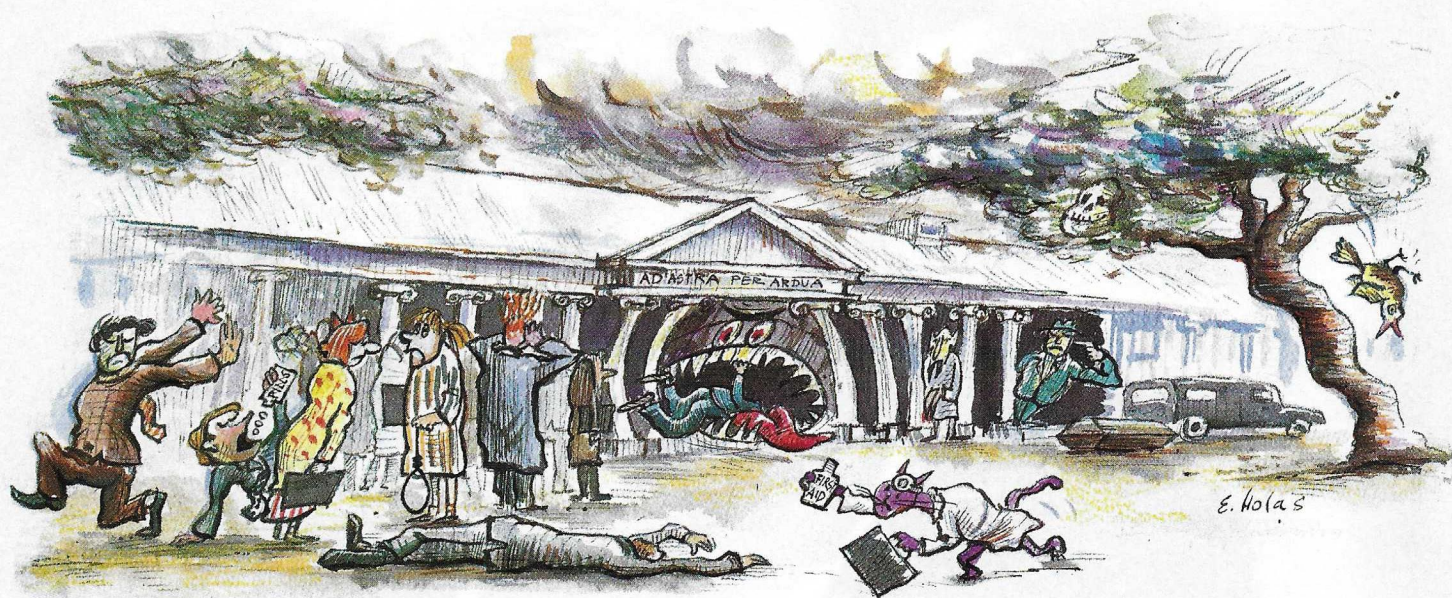


FEAR AND LOATHING AT HARVARD LAW SCHOOL



Like boot camp or prison, Harvard Law School in the sixties seemed designed to dissolve every badge of self-worth and remake inmates' identities in the values of the enveloping whole.

Hillary Rodham Clinton tells the story of how, on a date out of Wellesley in 1969, she attended a Harvard Law School function, met a distinguished professor there, and said she was considering Harvard “and its competition.” “Two things, young lady,” the professor replied with typical bluntness. “First, we have no competition. Second, we have more than enough females at the Law School already.”

In one of history's smaller ironies, this encounter created a First Lady: Ms. Rodham promptly applied to Yale Law, where she met the future president. But there is no irony in the way her tale caught the essence of Harvard Law School on the cusp

of the seventies. Only Harvard would refer to itself as *the* Law School. Only Harvard could get away with it.

True, Harvard Law School was the first—or is, at least, the longest-surviving—U.S. law school. And granted, it may have shaped American law more than any other institution except the Supreme Court. Yet like certain subatomic particles, its influence has flowed as much from negative charges as positive ones—from the power to repel as well as to attract.

In spring 1969, about to graduate and cross-registered in a College sociology course, I interviewed 30 law students and faculty for a paper on the Law School. My subjects included a cross section of my classmates plus professors, Law School ad-

by MICHAEL H. LEVIN,
*releasing the long-suppressed results of a survey
of members of the Harvard Law School Class of '69.*

ministrators, and the two psychiatrists with jurisdiction over the traumas of legal education, Alan Stone and Preston Munter. My thesis, drawn largely from Erving Goffman's *Asylums* (1961), asserted the school was a "total institution" like mental hospitals, prisons, and boot camps, designed to dissolve every badge of previous self-worth and remake inmates' identities in the values of the enveloping whole.

My conscious motive for pursuing this thesis was not vengeance, though something in my manner must have triggered Dean Derek Bok's nervous remark that "that book about loony bins" might not be the best model. Spurred by Vietnam, student strikes, and novel demands from blacks and women, self-scrutiny had arrived at the Law School. It was a time of ferment: faculty Turks sought change more rapid than what one called "glacier-watching," and there was significant administrative interest (not to mention deniability) in what I might find. My own goals, however, were simpler. I wanted to know why my Law School interlude, like that of many of my classmates, was so horrid. And whether it had to be that way.

For a variety of reasons the paper never got written. But my interview notes remained stuffed in a satchel, where they moldered through a succession of basements until I retrieved them on the eve of my 25th reunion. When I opened that Pandora's box, I released a cascade of demons and disappointments, old guilts and shames and suppressed rationalizations, as sharp as when they were first experienced by that battalion of unsuspecting 1Ls that assembled in Cambridge 28 years before.

But what mostly spilled out was rage—volcanic, simmering, ice cold, sublimated, transferred. "I feel totally shafted," said one Arizonan who finished in the middle of my class. "I was really committed to this place. But I just get madder and madder. I've been getting madder for three years. . . . There are guys here so angry they could kill someone. . . . One guy, you would talk to him, and he would get so mad he'd be ready to explode. His fists would clench and his face would get red. . . . He ran down the hall screaming one night. . . . He had never been like that until the end of first year. That year just rubbed all the evil places raw, brought out the worst. People would do anything to get ahead."

Still, almost no one dropped out. Though many fled after first year into electives, cross-registration, secret societies, even skiing or bridge competitions, most accepted class rank as a verdict on their abilities, not the system. The first year's unstated mission—to define identity as analytic brilliance, measured solely by 20 hours of year-end exams—was complete. As Dr. Munter put it, a "healthy adjustment" to first year meant "you're just as pissed off as the mental dropouts at what's been done to you, but you decide to work hard for your own purposes, and the hell with it when you get out." One of my Washington cohorts concurred. Now a senior lawyer at the Environmental Protection Agency, he was amazed I attended any

reunion, calling the Law School "three years in the dentist's chair." Only later did I learn he'd planned to attend too.

By 1966 the school had come a good way from the Stalinist terror of the thirties, when 35 percent of 1Ls were summarily flunked. Then the traditional orientation speech began, "Look to the right of you. Look to the left of you. One of you won't be here next year." But distance is relative, and as the state of the former Soviet Union indicates, such roads are long.

This, after all, was the place that, for fear of contamination, refused to let Felix Frankfurter teach constitutional law or lecture any students but graduating seniors, because he'd helped defend Sacco and Vanzetti a decade before; that invented and made de rigueur a Socratic method founded on iron inductive reasoning (and described by my classmate Russ Russell as "the height of ungenerosity. Never give answers. Only ask ques-

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tions. Let the class figure what it's supposed to learn"); that relished verbal assault, from professors' remarks that terrified reciters "should have a sheet drawn over you" to students' piranha attacks on their fellows; that carried this custom even to faculty meetings, where Assistant Dean A. James Casner, five feet tall, was heard to remark, "Griswold's such a good scholar, he doesn't have to have a personality," and Dean Erwin Griswold, LL.B. '28, replied, "Would you stand up on the table, Jim? I can't hear you"; and that into the sixties remained the father of old-boy networks, where deans were selected by their predecessors, appointed tenured faculty members by private letter, and designated Supreme Court clerks without consultation or dissent.

In 1964 Dean Griswold could still invite the entering class's 11 women to dinner and grill each in turn about how she justified displacing a man. In 1966 the school's newly revised *Handbook for Entering Students* still contained thickets of instructions on how to summarize, type on gummed onionskin, and interleave in 10-pound casebooks each of the thousands of judicial opinions to be read that year. (It also referred to "facilities for research men" and suggested that a good recreation in "the outside world" was "observing trials in the United States District Court.") That fall

the school newspaper ran a feature cartoon of a wolfish 1L dropping hemlock in his professor's water pitcher, captioned "One student's humble answer to the Socratic method." No further explanation was required.

So the 500 new members of the class of 1969 in congress assembled were not told to look to our left. But the effect was no different by the time Dean Griswold finished noting that our ranks included some 300 Ivy League honors graduates, 100 Phi Beta Kappas, 50 student government presidents, 40 Oxbridge fellows, and several all-Americans, not to mention medical doctors and holders of the Distinguished Flying Cross. Incidentally, he added, our class standing, law school careers, and professional lives would be determined by June exams. But not to worry, he concluded, citing the *Handbook*: "The apprehension you feel is natural. . . . If you've done your work all year, you should have no trouble. Your job in the . . . weeks prior to the exam is to organize and synthesize all your learning and reflect on it calmly."

Five hundred overachievers left Ames Courtroom clenching their teeth. What Ralph Nader, J.D. '58, called a "very impressive acculturation process" was already in gear. As Nader noted during a recruiting trip for his infant public-interest group the following year, "We had night lectures tell us about the lure of the Law School. We went to [Socratic] classes and saw arrogance transformed into a pedagogical device. And the tension built, reflect[ing] the kind of tunnel vision that made a trip to the Square sound as if one were going abroad.

I remember one night early in the morning—once in a while I had to get some air—I was walking near the dorms and saw a whole sheaf of paper from a book all over the grass. I looked up and there was one light way up on the fifth floor. It was Lon Fuller's book on contracts. Apparently some [1L] had just gone berserk and torn it out leaf by leaf and set sail. But that wasn't the significance of the episode. . . . Because my first reaction was: Why did he pick Fuller's book? It was then I realized that they had really gotten to me." As several of my classmates put it, among their most vivid impressions were "the dorm lights, the worrying when someone's light was on later than yours." A regular ploy became sleeping with one's lights on, to outfox the competition.

Imagine a section of 125 1Ls, arrayed in ranks like a Colosseum crowd but with the Christians in the amphitheater rather than in the arena, while the professor volleys 50-millimeter ques-

tions with the help of his seating chart. ("What were you worried about?" Professor David Shapiro '54, LL.B. '57, recalled Casner chuckling, years after one class in which Casner grilled Shapiro so mercilessly that the future professor almost returned home: "If I kept you on the griddle for half an hour, you must have had something to say.") Picture them marching from Contracts to Torts to Criminal Law, Civil Procedure to Property, three class hours every morning with four hours of baffling text for each hour of recitation, two weeks behind by the fourth day, and no feedback till exams nine months off. ("Do the best you can," the professors reply to pleas for assistance. "Just see what you can get out of it.")

Quadruple this scene to yield the biggest law class in North America—twice as large as Yale, three times larger than Stanford, Cornell, or Columbia—where other sections might as well reside on Mars, and the main vehicle for human contact is the five-member study group dictated by the *Handbook*. "It is suggested," recites one assignment sheet from my study group, "that we meet three times per week until the middle of May and do two questions per session, having one person read to the group his entire answer with discussion to follow. . . . Only by following such schedule rather rigidly will we hope to complete the 21 questions [we have assigned]."

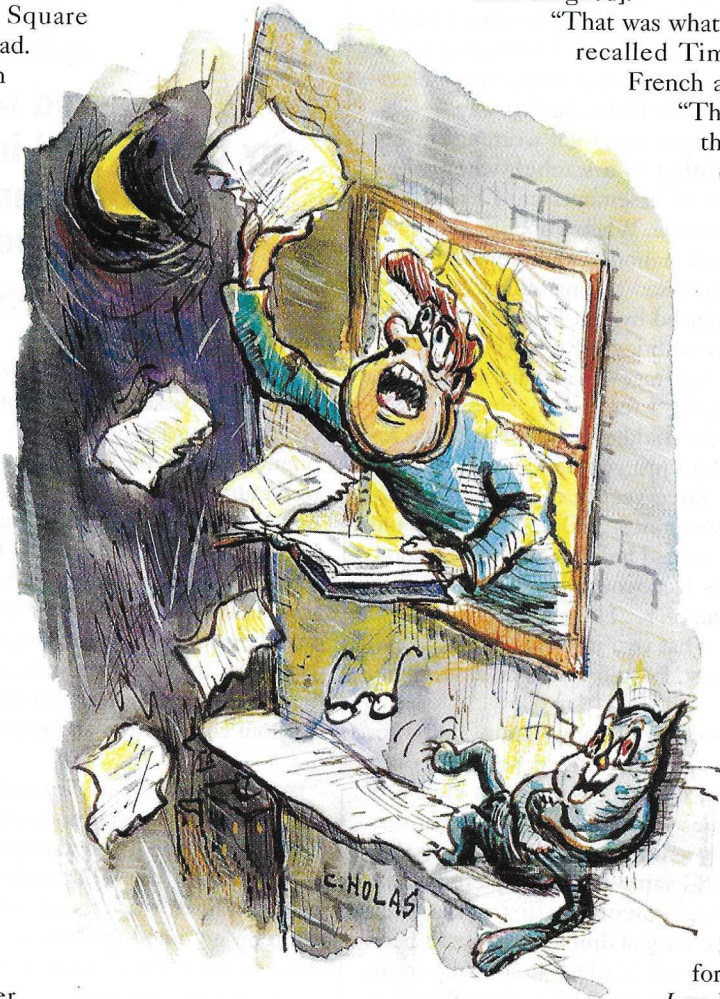
"That was what made everyone the craziest," recalled Tim Clay, who spoke flawless French and now resides in Grenoble.

"That study group, with everyone thinking how little they knew each time someone answered a question. That's why I got out after the first couple meetings. Everyone was just screaming at each other."

Add classes scheduled through noon Saturday, making weekend escapes seem like breakouts from the Chateau d'If. Fold in Ladies' Days, random sessions in which professors called only on our 29 women. Sprinkle with

Vietnam, which continued to pursue us through shrinking deferments and hostile draft boards, making grades even more important. Spice with 16 approved "extracurricular activities" involving only legal matters, plus library tables labeled, reserved, and rigorously enforced solely "for members of *Law Review*."

Indeed, beat in a dollop of "making *Law Review*," that



"Apparently some 1L had just gone berserk."

honor limited to the top 25 students (under 5 percent) of each exam-ridden class, dividing the blessed from the damned. *Law Review* men (there were no women) were effectively absolved from lectures, being supplied instead with special course outlines for upperclass exams. *Review* men had private faculty dinners each month and collegial dialogues with professors when

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they deigned to appear in class. *Review* men were Supreme Court clerks, first-round picks of prestigious law firms, instant special assistants to senators and select committees. And though the school had created other “honoraries”—a Board of Student Advisers, a Legal Aid Bureau—it was understood these didn’t count for much. *Review* was *Review*; the rest of us would be proles.

Even attempts to reform the *Review* selection process sounded like bulls from the Vatican. As stated by one 1968 proposal to ordain five additional *Review* editors through a separate writing competition: “The student editors feel keenly the responsibility of maintaining a tradition of preeminence. . . . The *Review* always appears on the tenth of the month. To this rule there are no exceptions. Rigid adherence to such a deadline naturally causes some problems of overwork. . . . Therefore, *Review* members may be called on to make sacrifices involv[ing] . . . loss of sleep and some curtailment of social life.”

Which was somewhat ironic, since none of us had a social life. But not nearly as ironic as the published views of famed sociologist David Riesman ’31, J.D. ’34. Riesman noted the Law School’s “scarifying emphasis on grades” and the fact that “men of outstanding undergraduate attainment, Rhodes scholars and junior Phi Betes, let mediocre grades in law school convince them that they were mediocre men.” Yet he described *Law Review* as an idyllic “island of teamwork in a sea of ruthless rivalry”—to which one of Riesman’s *Review* mates replied, “That guy hasn’t changed. He’s still a brat.”

Riesman was right about rivalry, which became and remained a dominant motif. From dawn to dusk, September through June, the order of the day was Darwinian competition—in class (described by Munter as “not a normal educational process, but an attack”); among study groups battling like sports franchises to recruit or retain high-powered members; in whispered comparisons of who outlined what notes or briefed more cases; during hastily gulped meals in Harkness Commons (recalled by Tom Buess as “harsh light . . . no sound-proofing, so you can always hear people across the room talking torts or contracts . . . cinder blocks, like a penal institution”). “The thing that amazes me about the Law School,” said Russ

Russell, “is the totality of it. If you’re not good at law, you’re not good at anything.”

A common line, both invitation and threat, was “Come study with us tonight.” One classic response, by Glen Moreno, when asked if he’d outlined the day’s 20 pages, was “Oh, no. I did the whole book.” It was not unusual to find seatmates surreptitiously copying their neighbors’ case summaries or jotting secret corrections to hastily blurted answers. Circulating tales told of job applicants asked to explain finishing in only the top third of their class, of 12th-ranked hires losing confirmed summer clerkships when 10th-ranked classmates applied. The year was an exercise in handicapping that would put Saratoga to shame. Everyone constantly recalculated their fellows’ possible rank, making minute daily adjustments based on class performance, chance remarks, or phases of the moon.

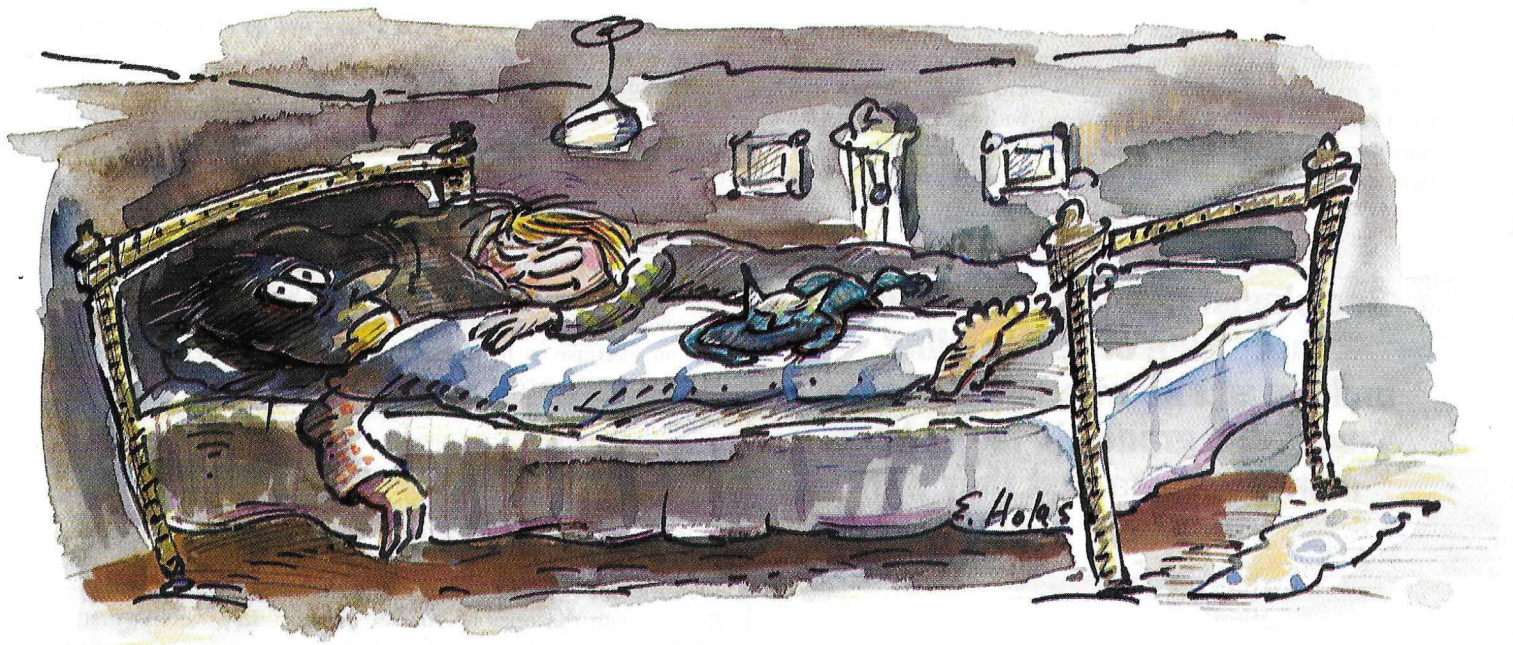
Since no one knew what counted, and the Socratic method—unlike Socrates—barred feedback, tensions multiplied. They were not soothed by the widespread belief that each of us was a fraud. “I guess about eighty percent of us thought we failed, even the ones on Board of Advisers, because they didn’t make *Review*, even the ones on *Review*, because they weren’t first,” Bill Vicary said. “I was positive I flunked this one course first year,” added Jim Keenan, a tough Vietnam vet. “It was my highest grade. All through school I was sure I would flunk . . . courses no matter how much I prepared. I guess it was my Catholic fear of damnation, since I was never prepared enough.”

My own study group went into a frenzy when Tim Clay quit. Other study groups tried to persuade potential school dropouts to take exams anyway. At one primeval meeting to discuss student unrest, Professor Casner insisted on taking down attendees’ names, addresses, and phone numbers. From the looming specter of exam week and numeric class rank, there was no escape.

As the year swung toward June, phobias, psychosomatic symptoms, and magical thinking erupted. Fevered discussion of study methods gave way to speculation about the unidentified 1L who ground a 10-foot mirror to powder with his boot heels on the tiles of a Shaw Dorm mens’ room one night. “I dreamed I finished eighty-first,” Eldon Greenberg remarked in a sweat as we walked to class one day. “Then I dreamed it again.” Others began daily thefts from the Coop, or set quotas for defacing school property, or stacked Coke bottles so tightly they could cross their rooms without touching the floor. One group did a thumb-your-nose business selling pot in Harkness, between debates over jurisdiction and *stare decisis*. Another started a poker game that overrode class, study, meals, and sleep for two hundred hours.

“The place filled up with obsessive-compulsives,” Keenan recalled. “One guy outlined everything so completely he never had to take notes—just checked to see if the prof got the points he did. . . . He got a C.” “People were really close to the edge,” added Tim Clay. “One guy, preparing for exams in the library, kept tapping his pencil on the table. I asked him to stop; he came over and grabbed my hand and apologized over and over, about fifteen times. Then he kept doing it.” Several 1Ls took their exams in Stillman Infirmary, courtesy of bleeding ulcers. One cornfed Iowan lugged six-packs of beer into each test. “I get thirsty when I think,” he said, red-nosed.

That year more than 50 law students—albeit from a total



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body of 1,700—were hospitalized or repeatedly treated for syndromes caused by the crushing effects on self-esteem of grade competition and Socratic method. This did not count the considerable number who refused free assistance “because of the stigma . . . and all the psychiatrists would say is ‘Work it out yourself.’” As put by one of my classmates, “I always got B’s and A’s, all through Swarthmore and Oxford; I thought that was pretty good. But here, even with the same position in the class, you think you’re a pile of rubbish. . . . There was no rhyme or reason. After the first year, I gave up and never talked in class.”

To retrieve those times, I did not need my notes recording the near-universal belief that “everyone is miserable, even 3Ls.” Nor did I need the memories of waking up catatonic and staring at the ceiling (“Breathe!” my wife learned to hiss in her sleep). All I had to do was open my old casebooks, underlined and annotated in blue, green, yellow, purple, and red for facts, procedure, substance, dicta, and holdings. I looked at one for this article and had exam dreams all over again.

So pervasive was the *Review* divide that the two groups were believed to lead, and thus did lead, virtually separate lives. “After first year,” said one classmate, “whenever I went to the Law School . . . I always went in from Mass Ave, through the front door of Gannett House, then out the back. . . . Maybe somebody driving by would think I was on *Review*.” And while it remained possible to make *Review* based on cumulative grade averages in the second or even the third year, literally no one got—or chose to accept—such invitations. By then they could or would not see themselves as “*Review* material.”

But in that era of nascent flower children, Timothy Leary, and civil rights battles, *Review* editors were also scarred. Some were scarred and unapologetic, feeling the same way as the *Stanford Law Review* editor who wrote an open letter calling mid-level classmates—“50-percenters”—“mental cripples” to whom he owed no regrets. But many were scarred and bedeviled, as unable to justify their status as were Holocaust victims

to justify why they survived. To his astonishment, psychiatrist Alan Stone found high Law School achievers to have “frequent guilt complexes, especially more recently. . . . They feel they stepped on all their friends to get where they are.”

My one close *Law Review* friend, who loved even Socratic method, agreed. “The Saturday classes just drove me batty,” he said. “Then I’d spend all Sunday preparing for Monday. I outlined everything, my notes got fatter and fatter, six inches, a foot. . . . There was no question of going away, no minute off. I was a nervous wreck waiting for the grades to come back. And then, and *then*, it was all of a sudden two different schools, where classes became insignificant and professors were your friends. . . . The favoritism was unbelievable.”

Like many of us, my friend sought refuge in marriage, only to find he was married to the *Review*. “It was work, work, work, deadline after deadline, no time for anyone but *Review* people who became your friends whether you liked them or not. And their wives became your wife’s friends for the same reason; they never saw you, nobody else was on that schedule. . . . When we had our baby, I couldn’t be there, we were getting an issue out.

“And I felt more and more funny with our non-*Review* friends, because I felt they felt funny about not being *Review*. And all that time it was the *Review* people who were really antagonistic to the school because . . . we all knew we were no better, except at taking tests. That’s why all the reform movements came from *Law Review*—that, and being sure I’d be given high grades even if I did badly.”

Yet others also liked “learning to think like a lawyer,” finding it “intellectually bracing,” a “revelation.” A surprising portion of these were women. Some joined the sisterhood espoused by classmate Brenda Feigen, now an entertainment lawyer and part-time film producer. In recent proclamations, she reiterated that “being a woman made law school a rude awakening” and hoped that “our daughters will find a happier environment . . . than we did.”

More representative was the reaction of another female

classmate, now a state administrative law judge. Despite the Ladies' Days and "cookie jar quotas for women," she felt she "was a fraud" as an undergraduate but had found her *métier* in Cambridge: "It wasn't like UCLA or Brandeis, where the professors won't give girls an eighty because they'll just go and have babies. . . . And I always thought before, if I just sat up front and winked, I'd do OK. Here I worked hard for the first time, because I had no 'out.' . . . Sure they tell you what to do—go over everything four times, abstract it, brief it, summarize—and I was dumb and listened to them, because that's not what you do at all. . . . But I liked it, because of the esprit, the hard work, the egalitarianism, even if girls weren't taken seriously in lots of ways. . . . And I loved anonymous grading. All of a sudden, I wasn't phony any more."

The concurrence of most female interviewees was perhaps a telling commentary on the status of professional women in the sixties, still in the foothills of that long climb from denigration. But it also speaks to the steel of a group that came to include a

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member of Congress, several state legislators or corporate general counsels, a clutch of law professors, and a candidate for U.S. attorney general.

The process did not treat merely the women badly. It treated everyone badly; and that treatment was no accident. As I found when I dipped into the legal education journals, the whole edifice—the hammer-and-anvil approach of huge classes, Socratic method, impossible schedules, lack of guidance and feedback—flowed from conscious choices based on a model of initiation by ordeal.

Law professors are "gleeful about destroying students' preconceptions in the name of 'toughening,'" wrote Andrew Watson in a seminal 1968 article. "I will . . . not use the word *sadistic* . . . but there can be no doubt that they are enjoying their work. They view their task as . . . a holy mission to root out all ill-conceived and unreasoned at-

titudes . . . [with] little distinction in the way they assault those ideas which are valid though unexplained and . . . gross misconceptions. . . . They will openly insult students and psychologically cut them to ribbons . . . without much concern or even awareness." Like recruits with drill instructors, one swift result was a savage desire for vengeance, to beat the enemy on his own ground. Which—to the extent aggression is important to law practice, and litigation retains visible roots in armed combat—may have been the goal all along.

There was, of course, life after law school, as most of us soon discovered. Practicing law was very different from being a law student; it required and rewarded dozens of skills our analytic arabesques barely touched. But such skills were difficult to grade objectively. And because the Law School aimed for absolute meritocracy, it was diminished by the inherent limits of that goal: criteria so clear—and thus so narrow—their fairness could presumably not be questioned, yielding judgment without mercy, verdicts untempered by little larger relevance at all.

So whatever the effectiveness of resentment as a motivator, its emotional loss was largely temporary. But it was real.

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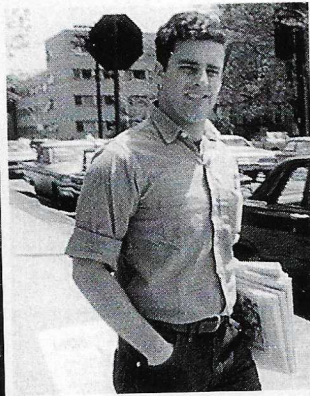
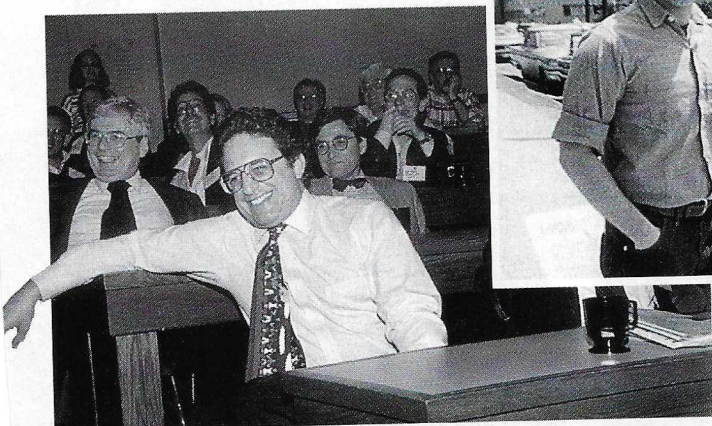
The Law School of this article no longer exists, its faculty and courses transformed by civil rights and feminism, consumerism, environmentalism, and their resulting cascades of revolution and reform. The grade system has gone from numbers to letters to pass-fail, although few students choose the latter for fear of making themselves unemployable. About half the editors now "write on" to *Law Review* through open competitions rather than "testing on," and practical lawyering is a large part of the curriculum. The orthodox Socratic method died a lingering death after Professor Casner's retirement in 1977. Though still trotted out as an introductory thunderbolt or sixth-inning change-up, it has mostly been displaced by a mix of small classes, "paper" seminars, cumulative tests, and dialogue; it's no longer the only game in town. One L's may now take such electives as legislation, feminist jurisprudence, or anthropological approaches to law. They may even cross-register for credit. And there's no longer any class rank. Perhaps most important, for more than a decade almost half of each class has

been female—a shift that has permanently altered the balance between warrior, healing, and problem-solving skills. I needed no more proof of that than discovery during my 25th reunion of a huge alfresco party of 1L's outside Harkness, just before final exams. That would have been inconceivable in the sixties.

But not everything is as mutable. Writing in *The Washington Post* last November, Hillary Mann, J.D. '94, referred to the Law School faculty as "mean, twisted men in tight suits berating us into oblivion." And in a May 1994 survey of student quality of life and educational satisfaction at 165 major law schools, Harvard finished 154th. ▽

Michael H. Levin, J.D. '69, practices environmental law and environmental compliance finance in Washington, D.C. Here he is, at left, while attending his 25th Harvard Law School reunion in Cambridge last June. In the photograph above, he is seen on a weekend holiday in April 1967—a 20-minute walk to Harvard Square to get

The New York Times.



MARTHA STEWART