

The Reluctant Student

Benedict Sheehy*

Attending law school was never a primary goal in my life. I went there reluctantly and by default. I went reluctantly because I had the impression that lawyers were morally suspect if not downright reprehensible. They defended criminals and other undesirables, and having made the Faustian bargain of trading their immortal souls for mortal riches, lived life in some closely circumscribed area of society of which I did not wish to be a part. Having no mathematical skills to speak of, and a fear of blood (not just my own!), I saw accountancy and engineering shut and medicine lacking any appeal, and but one option open – law. So I put in my application to go to law school.

I was surprised by the response of friends and family when I announced that I had been accepted at law school. In Canada, where I attended law school, it is a strictly post-graduate program, and I had been accepted into two other postgraduate programs, so for me being accepted at law school was no particular accomplishment. They were congratulating me on something that I did not see as significant. For me, it was simply another postgraduate program, and one that would allow me to make a living. For them, it was acceptance into the first stage of the pathway to status, wealth and power. I do not find any of these three particularly motivating: provided one is able to survive with dignity in society, benefits from companionship of good friends, and enjoys a purpose in one's activities, those three are extraneous and ephemeral objectives.

I approached the study of law after five years of postgraduate work

* B Th, MA, LLB, MA, LLM, Lecturer, University of Newcastle.

that took a broad and deep approach to scholarship. In my postgraduate work, it was not enough to master a body of knowledge: one was required to master a multiplicity of approaches and critiques, and to be able to synthesise, analyse, hypothesise and critique yet again. The uncertainty of the human condition and the indeterminacy of our human projects were central themes informing that scholarship. One course, by way of example, Hermeneutics, was a course on the work of Jacques Derrida and Hans-Georg Gadamer with an emphasis on the implications of their theories on the development of meaning for textual interpretation. Accordingly, when I came to law school, I discovered that I was quite unprepared.

Two incidents in my first year stand out. First, in my 'Legal Theories' course, naturally enough the question of interpretation arose. Innocently, I raised my hand and asked the professor (over in Canada, everyone who stands in front of university students is a 'professor') what theories of hermeneutics she was attempting to explain. Her explanation had been a bit muddled and failed to adequately critique or consider the weaknesses and inconsistencies of the approach. Her reply stunned me: 'What is hermeneutics?'

Second was my first year moot court experience. In retrospect, I pity the judges, and were I the blushing type, my memory of the experience would certainly bring such a flush to my cheeks. Be that as it may, in attempting to argue the correct interpretation and application of some long forgotten section of the *Young Offenders Act* (actually, it was a section eight appeal for transfer to adult court), I put together what would have been a persuasive argument from the perspectives of philosophers and literary critics – the two main groups of people involved in interpretation. A legal argument it was not. I am not sure I learned much from these two experiences other than that I was in a radically different environment from what I had been used to. Everything that I had come to understand about human nature, meaning and society meant very little. There was a new agenda in place and if I wanted to pass I had better learn it – and learn it well.

The material to be learned was not to be critiqued – it was to be accepted. It is the law. It was not to be considered, but applied. There were right and wrong answers, and answers to be found directly, and without much (if any) consideration of external factors. Cases are not stories, but principles of law. Judges are not narrators, telling the story of litigants and weaving them into the fabric of judicial decisions that make up that texture of society called 'justice', but givers of law. Law provides answers and any time one needs an answer, one turns to the law to find it. Intellectually, I found this environment stifling, and the inability to engage in much sustained critique nearly crippling. I kept up my reading and contacts with the outside world. Nevertheless, as I needed a job, law school it was. I put my mind to the task, absorbed

what I needed, and carried on.

Thankfully, law school was not only this intellectual drudgery. There were two very positive outcomes from my law school experience. One was the contact with my professors. My professors demonstrated a clear understanding of the power of law, and the great majority were able to mix that with humility. They also showed intellectual agility and a powerful mastery of their subjects. Outside of the classroom, their willingness to engage in thinking about law assured me that the black letter of the law was not all that there was to law. In addition, their respect for different styles of learning, while demanding a rigorous level of mastery of the subject in class made me appreciate the law school experience.

The other great benefit that I carry with me as a result of my law school experience is a sense of empowerment. Living as we do in a dis-integrated society (which is what liberal societies are), I was always aware of my vulnerability as an individual. This vulnerability was evident in many contexts, whether an abuse of power by an administrator, an assault on the street, or an attack by police. My law school experience, and in particular, learning about rights and the state machinery and commitment to support those rights made me a much more confident citizen. It provided me with greater courage to speak out against bullies, whether in public office, corporate boardrooms, or simply in the street.

I feared law and law school because of what it might do to me, changes it may impose on me. I have learned that neither law nor law school need do anything to anyone, nor change anyone, that status, power and wealth are not the necessary consequences of legal education, and that law, when understood, is like every other aspect of human endeavour – it is dynamic, interesting and characterised by the very uncertainty of the human condition and the indeterminacy of all our human projects. Finally, the one important distinguishing characteristic of law is its power to shape both the condition in which we live.