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A DAY IN THE LIFE OF S. BRECKINRIDGE TUSHINGHAM

as recorded by ERIK M. JENSEN*

The law school building had been riddled with gunfire. Bodies lay in disarray, their arms and legs horribly distended. Hungry buzzards circled overhead.

While you catch your breath, let me assure you that the first paragraph has nothing to do with the rest of this work. The language, which would have made even Bulwer-Lytton gag, is a come-on. It does nothing more than alert you to the fictional nature of our journey and to my long-term goal: to be the Robert B. Parker of law reviews.

Law reviews have always printed a lot of fiction, hidden among the “with respect to’s” and “take account of’s.”¹ But in the past, little of the stuff met FTC labelling standards. Now the pretense is gone. Everyone’s telling stories, often short ones that must have been dashed off on a long weekend.²

If everybody else is getting away with emoting in legal journals and books—publishing fabricated life stories as scholarship³ and beefing up simple points with extended dialogue—hey! I want to jump on the bandwagon before the wheels fall off. I can “hear the call of stories” as well as anyone.⁴ (In fact, I hear one now.)

I haven’t been to prison yet,⁵ but there ought to be a place for stories from WASPs with no arrest records, too. And I’m willing to drop an occasional footnote so that this will look sufficiently law-reviewish for the purists.⁶

My name is Samuel Breckinridge Tushingham, “Breck” for short. (It had to be something for short, and one of the alternatives was far

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1. At *The New Yorker*, law review prose is valued for its elegance—further evidence of that once great journal’s decline. See *Briefly Noted*, THE NEW YORKER, Oct. 21, 1991, at 134 (reviewing STEPHEN L. CARTER, *REFLECTIONS OF AN AFFIRMATIVE ACTION BABY* (1991)) (“The author . . . writes like a law professor, constructing tight arguments whose precision offers aesthetic as well as intellectual pleasure.”).

2. See Arthur Austin, *The Waste Land*, 1991 B.Y.U. L. REV. 1229, 1241 (“the new fad of storytelling was the newest scam in legal scholarship”). Naturally, the quoted line appears in a story.

3. Cf. AMANDA CROSS, *THE PLAYERS COME AGAIN* 228 (1990) (“It doesn’t have to be the truth, just your vision of it, written down . . .”).

4. See Kathryn Abrams, *Hearing the Call of Stories*, 79 CAL. L. REV. 971 (1991).

5. See Mumia Abu-Jamal, *Teetering on the Brink: Between Life and Death*, 100 YALE L.J. 993 (1991) (essay by death row inmate); Joseph M. Giarratano, “*To the Best of Our Knowledge, We Have Never Been Wrong*”: *Fallibility vs. Finality in Capital Punishment*, 100 YALE L.J. 1005 (1991) (essay by death row inmate).

6. See *supra* notes 1-5 and *infra* notes 7-34.

worse.)⁷ My bloodlines are good. Some of my ancestors came over on the Mayflower, heaving their guts out along the way. They could have formed chapters of Great-Great-Great-Grandfathers and grandmothers of the American Revolution, if only they'd had a better idea of what was to follow.

I was once a lawyer, and you know how that can be. Or, if you don't, consider yourself blessed. One 500-page set of lease documents too many became my designated driver, and I hit the road to drink. I was regularly crashing parties of the first, second and third parts, and my eyeballs glowed in the dark. My life, like my drinks, was on the rocks.

Therefore, be it resolved—like alcohol, some words get in the blood—I began to think of other pursuits. Why not law teaching? I know I'm supposed to care about the life of the mind and all that, and I would like to be a real academic—maybe a history professor or something—but that isn't going to happen.

Besides, law teaching has its special attractions. Law professors get paid real money; their take per hour approaches Michael Milken's. In addition, to salve their consciences, they can make contributions to the starving historians' fund.⁸

An academic job was attractive, too, because I remember my own law school teachers' lifestyle. I never understood how our tuition could be so high when the school had no overhead costs. Every office light seemed to be off by 3 p.m., and the electricity consumption on weekends wouldn't have powered Pin Point, Georgia, for a minute.

This is starting to sound as if I care only about money and free time, and that's not true. Another factor drew me to law teaching: law professors hate lawyers. Where else but in a law school could I be paid to do what I'd do for free: dump on the people I despise?

Anyway, I wanted a new job, so I went to the annual "meat market" run by the Association of American Law Schools. On two dreary November days in 1989, a Washington hotel was filled with law professors on expense accounts and us would-be academics paying our own expenses. I marched from interview room to interview room, drinking beer and acting as if I cared about the clinical programs and building projects at a zillion schools.

My wit and charm paid off. (What else could it have been? I'm a white male, remember, and I haven't yet disclosed any out-of-the-ordi-

7. Cf. *F.T.S. Assoc. v. Commissioner*, 58 T.C. 207 (1972), *acq.* 1972-2 C.B. 2 (collapsible corporation formed to develop and sell disposable toothbrush called "Tush").

8. Of course, law professors don't really make contributions (or do anything else high-minded, for that matter). *But see 'What Did You Do During the 1960s, Daddy?'*, *NEWSDAY*, Sept. 4, 1988, Ideas section, at 3 (describing admission of Supreme Court nominee, Douglas Ginsberg, that he had smoked marijuana while a Harvard Law School professor). Just try getting them to agree that law school money should help support the history department. But a little hypocrisy is fine with me. I'm a believer in the suburban liberal principle that abstract whining is better than out-of-pocket cash flow any day.

nary sexual preferences.⁹) I was invited to visit half a dozen campuses for full day interviews. Scoff Law School was to be the first, and this is the record of my day there.¹⁰

The invitation from Scoff was welcome. I wanted to make sure that my first teaching job was at an institution good enough to satisfy my intellectual appetites. They weren't many—I was perfectly willing to go light on the heavy stuff—but I wanted *some* sustenance.

I had heard Scoff was an up-and-coming school. Yes, I heard it from the Scoff Law interviewing team, but I did hear it. And, you know, it's comforting to be at a place where everyone pats everyone else on the back, over and over. Almost every school in the country, except over-rated Yale, tells itself it's underrated: "If only the rest of the world knew how good we really are," etc., etc. You've heard it before.

So I gratefully accepted Dean Dean's invitation, and I arrived in underrated Scoff on a blustery January Thursday when the city was under a blanket of snow. I had wanted to come on a Friday, which would have fit better into my work schedule. But Professor Leyser, the chairing of the apparently genderless Appointments Committee, pulled no punches: "You should get here before we close down for the weekend. Monday or Tuesday would be best, but definitely don't come on Friday."

Thursday it was to be.

The dean picked me up at 7:30 at the Scoff airport. As we drove to the campus, he chatted about the local sports successes and about the weather. (What would people talk about if there were no weather? What do people talk about in San Diego?) I started to doze off until we began sliding precariously close to one car after another. As I sweated in the subzero temperatures, the dean joked about "slippery slopes."

When we pulled safely into the dean's parking space, I gave a silent prayer, which I tried to make as consistent as possible with constitutional principles. Kissing the ground was out of the question. I needed my mouth that day, and I couldn't afford to leave it on the frozen surface.

The law school building was not quite as imposing as I had hoped, but bricks and mortar can't substitute for good people. I later learned that good people—or bad people—can't substitute for bricks and mortar, either, but that's another story.¹¹

Before my interviews began, the dean gave me a tour of the facility. He was trying to put the institution's best foot forward, and he wanted me to think that foot had never been touched by a loafer.

The cafeteria was one of the finer points in the building. "We try to

9. I'm thinking about it. How would anyone check? Hm-m-m-m, maybe I'd better think some more about this.

10. The names have been changed, but you know who you are. *But see infra* text accompanying note 34.

11. "Oh, good," I hear you say, "another one's in the works."

put our resources into those activities that generate the most student interest," the dean explained, "and we learned from a survey that students spend much more time eating than studying." The dean also told me, off the record,¹² that there used to be a separate faculty dining room, until the food fights got out of hand.

The cafeteria did have its pedagogical value—and not only because law is a seamless web, or a webless seam, or whatever. Among other things, it was used as a training ground for a course in restaurant law. Building on prior successes—desserts ranked tenth on the *Gourman Report*, and the pass rate on the salad bar exam was high—the dean hoped to develop an LL.M. program in the subject.

The dean was proud that the school's library had been compressed into one old classroom, with a storage closet serving as the "rare books room."¹³ "With everything on machines, we need terminals, not books," he said. "The book is as outmoded as chivalry. Happily,"—here he laughed—"we have neither."

I grinned weakly. When I expressed some hesitancy at cramming western thought into a microchip,¹⁴ the dean ridiculed my neanderthalish thinking. His jab to the ribs was gentle, but pointed: "Breck, I suppose you get some tactile pleasure from holding a book in your hands."

I do, of course. The Tushinghams raised me properly. Books are sacred. Do law professors read books?, I asked myself (and only myself).¹⁵ I continued to smile in what I hoped was a noncommittal way. I was trying to get a job offer, after all, and I kept thinking about those 500-page lease documents.

As the time approached 9:15, the dean walked me to my first interview. On the way to the faculty wing of the building, we passed the moot court room, where a trial practice class was meeting. It may have been my imagination, but I swear strains of *Swan Lake* were wafting down the corridor. The trial lawyers-to-be must have been practicing their pirouettes at the barre.¹⁶

We also passed by the law school conference room, where raucous laughter poured through the transom. The dean told me that the faculty's Committee on Harassment was meeting to consider the ethnic jokes heard in the hallways during the preceding week. The dean expected the committee to issue a strong statement condemning such reprehensible behavior.

Just as we reached the faculty offices, I saw a blur and felt a gust of

12. So sue me, Mr. Dean.

13. The "room" contained one dusty set of Coke's *Commentaries* and the publications of the Scoff faculty, which are, I learned later in the day, rare indeed.

14. Cf. JOHN MORTIMER, *RUMPOLE A LA CARTE* 101 (1990) ("The library [at Gunster University] was another concrete block. We went up in a lift to a floor which hummed with word processors and computers and even had shelves of books available.").

15. I now know the answer to that question: No.

16. Cf. JOHN MORTIMER, *RUMPOLE AND THE AGE OF MIRACLES* 72 (Penguin ed. 1988) ("I have always found a knowledge of the law to be a positive disadvantage in a barrister's life. . . .").

wind. The dean laughed. "That's our newest faculty star, Professor Rush, a young scholar in Caribbean semiotics. We recruited him from Ottabia Law."

"Caribbean semiotics must be a fascinating subject," I replied, although I had no idea what a semiotic is and I could think of nothing Caribbean except Harry Belafonte. "I'd like to learn more about it," I added. "What has he written?"

"Well, nothing yet," replied the dean. "Great work can't be rushed, and we know he's working. You saw how fast he walked, Breck, and he was carrying a legal pad."

The pad was good recyclable white paper, too. The dean went on to explain his theory that the less a person has written, the more likely it is that the person has thought deeply about a subject. By that standard, Rush was an extremely thoughtful young man.

I must admit I wasn't convinced. I had recently read David Lodge's description of the once-promising Professor Masters.¹⁷ And I remembered my first sergeant in the army, who walked around with a clipboard. No one ever saw him do anything with it, but he always looked ready for business. He probably still does.

But I suppose I was being unfair with those impure thoughts. Who was I to question Professor Rush's efforts? I was an academic neophyte, unaware of all the pressures facing intellectuals—such as getting out of bed in the morning (or afternoon).¹⁸

Ideas take time to germinate, and Rush was still wet behind his academic ears.¹⁹ Ears dry slowly in the ivory tower climate. Rush had been teaching for only ten years, and during that decade he had only one sabbatical and a couple of research leaves. And summers are short, with all the yard work to do. The rest of the time Rush was burdened

17. '[Masters is] a great man, really, you know,' [Busby] said, with faint reproach. 'He is?' Morris [Zapp] panted.

'Well, he was. So I'm told. A brilliant young scholar before the war. Captured at Dunkirk, you know. One has to make allowances . . .'

'What has he published?'

'Nothing.'

'Nothing?'

'Nothing anybody's been able to discover. We had a student once, name of Boon, organized a bibliographical competition to find something [Masters] had published. Had students crawling all over the Library, but they drew a complete blank. Boon kept the prize.'

DAVID LODGE, *CHANGING PLACES* 89 (Penguin Books 1978) (1975).

18. Herbert Hoover was not always wrong: "I do not know of any other profession, or calling in the whole wide world where laziness and incapacity are wrapped up in the sacred garment of perpetual tenure." *Quoted in* Stuart Creighton Miller, 2 *ACAD. QUESTIONS*, 83, 85 (summer 1989) (reviewing GEORGE H. NASH, *HERBERT HOOVER AND STANFORD UNIVERSITY* (1988)). *See also* MICHAEL MALONE, *FOOLSCAP* 47 (1991):

Tenure was a choke hold whereby the faculty who grabbed it were never to be shaken loose unless so senile they couldn't locate their classrooms, or so depraved they debauched dogs in public. Short of those sins, the whole university had itself turned into one big sanctuary harboring the merely mad, the simply slothful, and the routinely immoral, ignorant, inept, obtuse, and inebriated.

19. Please excuse the mixed semaphores.

with classes; he had been left with only twenty or so hours per week to work on his multi-volume project.

I learned that the Scoff faculty was filled with scholars professing massive works-in-progress (hence the title "professor," I guess). The faculty's publication list for the prior year was short: Professor Dallas (about whom, more later) had several pieces in major reviews, and Professor Moot (ditto) had a couple of notes in the *Grazing Law Digest*. That was it. Nevertheless, one of these years, I'm sure, a publishing explosion will occur at Scoff. The Dead Sea Scrolls will be transcribed, too.²⁰

But I digress (or do I?). Before getting caught in Rush's academic cyclone, the dean and I had been on our way to my first interview. At about 9:30, the dean introduced me to Professor Chips.

I had assumed that few members of the Scoff faculty would be willing to admit to no work-in-progress, but Chips, a student of law and appliances,²¹ was refreshingly forthright: "Teaching is our *raison d'être*—pardon my French. Writing articles wastes time that could be devoted to our students and to writing memos."

Professor Chips's enthusiasm was catching; I had hopes for a vigorous discussion of legal education's faults and strengths. Unfortunately, shortly after my arrival, he looked at his watch and gasped: "We should talk about this at length, but I'm afraid I don't have time now. I must run to the grocery store and then clean the house. Errands are just all-consuming, you know; I barely have time for my sauna. I do hope we'll see each other again."

Chips's departure left me with free time before my next appointment. Looking for excitement—or what passes for excitement in academe—I wandered toward the placement office.

I found more than a little activity. Students were demonstrating against an employer that was interviewing on campus. The employer had refused to follow the school's guidelines urging that hiring decisions be made without regard to students' academic records. "Reject Ableism" read one sign;²² "Hire the Braindead" read another.

As I understood the students' position (and I confess I was unable to appreciate all the subtleties), thinking is Eurocentric, as well as male-centered.²³ I moved quickly past the demonstration, afraid that the stu-

20. Son of a gun. As I was writing this, it happened, sort of. See John Noble Wilford, *Monopoly Over Dead Sea Scrolls Is Ended*, N.Y. TIMES, Sept. 22, 1991, at 1, col. 3 (describing decision of Huntington Library to make available nearly complete set of photographs of scrolls).

21. Cf. JOHN KENNETH GALBRAITH, A TENURED PROFESSOR 50-51 (1990) (to avoid charges of "spread[ing] himself too thin," economics professor becomes world expert in refrigerator pricing).

22. See Smith College Office of Student Affairs, *Smith's New Guide for the Perplexed*, reprinted in 4 ACAD QUESTIONS 80, 81 (Spring 1991) ("ABLEISM:—oppression of the differently abled, by the temporarily able.").

23. See Perry Meisel, N.Y. TIMES, Aug. 5, 1990, § 7, at 25, col. 1 (reviewing SUSAN RUBIN SULEIMAN, *SUBVERSIVE INTENT: GENDER, POLITICS, AND THE AVANT-GARDE* (1990)) ("Feminist criticism, it appears, like feminist fiction, must be a kind of writing that refuses the straightforwardness of male writing, including its armory of values such as clarity, con-

dents might convince me on the merits.

At 10 o'clock, I climbed over piles of rubbish²⁴ to get into the office of Professor Oldham, student of Roman law, good food and fortified beverages—and a fine archeological specimen himself. Oldham fit the professorial role perfectly, rumped and bursting at the seams.

Oldham's ample shirt showed a few dribbles of food, and it appeared to have once been very good food indeed. Wine spots also seemed to be vintage. "Uh-h-h-h, Breck, uh-h," Oldham began, "how was your—uh—trip—uh, uh—travel—uh, uh—junket—uh, uh—to Scoff?" My trip apparently reminded Oldham of some principle of canon law—it sounded to me like *lax lux lex et lox*²⁵—and he discoursed at some length on that subject.

By the time Oldham had uttered two or three other questions about legal matters, the hour was up, and we had barely reached the tenth century A.D. The spread of the Danelaw was not yet finished.

I wanted to stay; the aroma of last night's repast was intoxicating. But Professor Oldham was insistent: "You must—uh, uh—get on—uh—with your shed—uh-h-h-h—yule."

To be fair to Oldham, I should note that the delay was not entirely his fault. We were interrupted twice during the hour by Professor Bolt. "Lightning" Bolt, a member of the faculty building and grounds committee, was performing his institutional service by checking for burned out bulbs. No light was burned out, either time.

And we were also interrupted by a deeply tanned guy in shorts and sandals, who came in looking for a cigarette. Professor Hunque (pronounced "hoon-kay") had just returned from the Virgin Islands. "Hunque's on sabbatical," Oldham informed me. (In the interests of conservation, I'll leave out the Oldhamic "uh's" this time.) "He's continuing his summer research on skin cancer, one of today's burning legal topics." Hunque and I briefly discussed the possibility of suing the Vatican for its failure to print warnings about the effects of sunshine.

At 11 a.m., I left as Oldham was filling in the "uh's" between "Good" and "by." I moved next door to the office of Professor Madonna, whose bookshelves were stocked with girlie magazines from the past forty years. He was working on a pornography study, which he told

cision, and pointedness, all of which can be interpreted as masquerades for the male lust for power, replicating the structure of male sexual pleasure.").

24. One can learn a lot from piles in faculty offices, as Donald McCloskey has noted.

Waiting in Gerschenkron's office for an interview one day a graduate student received from the nearest of numerous stacks of books and magazines a lesson in the scholarly life, the sort of lesson professors forget they give. The stack contained a book of plays in Greek, a book on non-Euclidean geometry, a book of chess problems, numerous statistical tomes, journals of literature and science, several historical works in various languages, and, at the bottom of it all, two feet deep, a well-worn copy of *Mad* magazine. Here was a scholar.

DONALD N. MCCLOSKEY, *IF YOU'RE SO SMART: THE NARRATIVE OF ECONOMIC EXPERTISE* 75 (1990). Oldham's piles taught different lessons, however, most having to do with municipal health codes.

25. I think it means "lazy lighted law on a bagel."

me, is likely to conclude that pornography is a good thing for society and is, in any event, a lot of fun for readers like him.

Madonna and I talked a lot about constitutional law. Madonna's knowledge of the details of post-1985 cases was profound. I expressed my admiration for someone who had immersed himself in the Constitution.

"The Constitution?" he replied, with a puzzled look. "Oh, yes. I read that in high school."

"But, but . . ." I tried to interject a word in favor of the Founding Fathers, to no avail. In Madonna's universe, nothing important happened before 1950.

"Who cares about history?" thundered Madonna. "We have a living Constitution, and most life forms, after all, have no interest in their past. Do you think the polliwog gives a damn about James Madison, Breck? Of course not! Nor do I." The good professor²⁶ paused. "Now *Dolley* Madison is another matter," he added with a knowing wink.

I questioned Madonna about legal publication: how would he go about getting his pornography study into print? He was not clear on many journal practices, having last published something in 1971. But that fact did not prevent him from trashing law reviews: "Student editors don't know what they're doing; they can't understand the subtleties of my arguments. If I were to send them something, it would be way over their heads."

The hour ran out before I could learn how Madonna planned to deal with his law review difficulties. Actually, I suppose I had already found out his plans, just not the official version. In any event, I escaped. Madonna waved goodbye and pulled out a 1960s era *Penthouse* for closer study.

The appointments committee had arranged for me to visit a couple of classes during the day. At noon, I sat in on a professional responsibility session. The Scoff curriculum in professionalism was state-of-the-art, dealing with many questions that had previously been ignored in law school settings.

Because of Scoff's repudiation of the printed word, students had no reading assignments. Instead, they were required to watch *L.A. Law* and reruns of *Car 54, Where Are You?*, and to be prepared to discuss the ethical issues raised by each week's episodes.

This particular PR class considered an important, but understudied, issue—whether a lawyer should have sex with his or her clients.²⁷ Like any difficult question, this one seemed to have no clear answers. The

26. Cf. MAE WEST, GOODNESS HAD NOTHING TO DO WITH IT: THE AUTOBIOGRAPHY OF MAE WEST 156 (1959) (describing the movie, *Night After Night*, in which West responded to a hat check girl's exclamation—"Goodness, what beautiful diamonds!"—with the disclaimer, "Goodness had nothing to do with it, dearie."); see also Jack Mathews, *Movie Beginnings: First Came the Words*, L.A. TIMES, Dec. 1, 1987, § 6, at 7 (describing quote in more detail).

27. Study of the issue has been restricted to specialized areas of the law. See, e.g.,

students had obviously thought a great deal about sex, and their rapt expressions confirmed that they had brought their thinking caps to the classroom.

One student commented on the safety precautions that should be taken before lawyer-client sex. The instructor, Professor Reich, skillfully used those remarks to lead into a discussion of whether the lawyer, the client, or both have the responsibility to take protective measures.

Another student suggested that his participation in sex would depend on who the client is and on how many clients he has at the time. Still another pointed to the scheduling problems that could develop if some clients were singled out for special treatment: "I would refuse to keep my other clients waiting." Many raised questions about how time spent in sexual frolics should be billed.²⁸

The discussion turned to whether lawyers might have affirmative obligations to engage in sex. If the "duty of client contact" ever is accepted, I have no doubt that Scoff will be known as its birthplace. But this question, too, is fraught with conceptual (and contraceptive) difficulties. For example, one student pointed out the extraordinary physical demands that might be made on a lawyer prosecuting a class action.

The "dialogue," as we academics say, was robust. Student hands were in the air throughout the hour. (Given the subject matter, that was probably the safest place for them to be.) The session ended when one student took the opportunity, to Professor Reich's obvious pleasure, to comment on the repressive American regime of the 1980s.

If I smoked, I would have wanted a cigarette after that class. Completely drained by 1 p.m., I was taken to the student happy hour (really a "happy day") for lunch. One good thing about happy hours is that you don't leave them drained.

It turned out that some of my afternoon appointments had been canceled. "Well, as I told you, Thursday is a down day," Chairthing Leyser reminded me. A few faculty had been dragooned into staying to talk with me, but their mood was not pleasant, to say the least.

At about two, I swayed into an office where Professors Moot and Jeffries were waiting impatiently. I had done my homework about Scoff Law, and I knew the questions to ask to show my interest in the school—or so I thought. Reading ten years of Scoff alumni publications and plugging "Scoff" into Nexis should have counted for something.

Lawrence Dubin, *Sex and the Divorce Lawyer: Is the Client Off Limits?*, 1 GEO. J. LEGAL ETHICS 585 (1988).

28. See Kathy O'Malley & Dorothy Collin, *O'Malley & Collin Inc.*, CHI. TRIB., July 18, 1991, C28:

Attorney Albert B. Friedman got bad news recently: The Illinois Appellate Court ruled that a female client whose divorce he handled didn't have to pay his full \$15,500 bill because some of the time he billed her for was time the two of them spent having sex. . . . Attorney Albert B. Friedman got good news recently: He was appointed to the Illinois Supreme Court's Committee on Character and Fitness.

Query: If Mr. Friedman had engaged in group sexual activity, would he have billed several clients for the same time period?

I asked the two professors about the work of Scoff Professor Dallas, which I had read about in the *Wall Street Journal* and the *New York Times*. Dallas had developed a method to evaluate legal writings in terms of adverbial and adjectival density, and he was beginning to apply his analysis to the works of William Faulkner. Journalists were amazed, and amused, at Dallas's ingenuity.

"You must be proud to get that kind of exposure," I innocently suggested.

"Proud? It's an embarrassment to the school!" Moot roared. "What does this crap have to do with legal scholarship? Who cares what newspapers think, particularly about some southern cretin like Falconer? That idiot Dallas will probably start writing stories soon."

The temperature in the office had risen ten degrees. Moot continued: "Here! Look at this list of citations." He handed me a sheaf of papers with references to over 200 Wyoming court decisions in which his work on grazing law had been noted. "That represents real work."

"And you know what?" Moot wouldn't stop. "Dallas once *criticized* me for thinking like a lawyer! I consider that the highest compliment. Everything lawyers need to think about can be learned by studying grazing law. 'No more than 3.6 cows per acre may be grazed in Montana at elevations above 4,000 feet.' *That's* what law is all about."

I was impressed—I was embarrassed not to have boned up on Wyoming and Montana jurisprudence—but I expressed some surprise that a colleague's success could cause such a reaction. My remark was met with silence—a very loud silence.²⁹

We exchanged a few more unpleasantries for the rest of the allotted time. When I left the Moot-Jeffries office near three, the stale hallway air felt like a mountain breeze (with nothing grazing in the vicinity).

Except for the student happy hour, which was still going on, the building seemed empty at 3 p.m. I would have been lost if the dean had not arrived to thank me for coming and to escort me to another class, this one in feminist jurisprudence.

When I commented on the quiet, the dean mumbled that the faculty was hooked up at home to every conceivable electronic research device. Working at home is as easy as working at the school building, he emphasized, and without the distractions. Sleeping at home, I noted mentally, is even easier.

Ordinarily there wouldn't have been a class taught so late in the day so late in the week—three o'clock on a Thursday afternoon, for heaven's sake—but student enthusiasm for alternative legal analysis required fitting a course like feminist jurisprudence in somewhere. Professor Taylor, an untenured woman, had been brought in from "LaLa Law," one of the California law schools, to teach the course.

I asked the dean whether the school required that feminist jurispru-

29. See A.N. WILSON, C.S. LEWIS: A BIOGRAPHY 181 (1990) ("There is nothing like worldly success on the part of one academic to make all the others hate him or her.").

dence be taught by a woman. "Of course," replied the dean. "Could a man possibly understand the female way of thinking?"

I responded that many of my old army buddies had the same doubts, without realizing that their thoughts were to become the wave of the future.

The dean must have been a good ol' boy at heart. He pulled me aside for a confession: "Don't tell anyone I said this,³⁰ Breck, but the trusts and estates slots were already filled, and we are under pressure to hire more women. They have to teach *something*, and if they want their little ghetto, it makes things easier for the rest of us." Professor Taylor was the only woman faculty member I saw at Scoff.

"Well, here's classroom A; go to it, boy."

Quite a few nasty glances were directed my piggish way as I entered the classroom.

The class hour was devoted (probably not the right verb to use) to evaluating the effect of sexual activity on the separation thesis.³¹ What this seemed to mean was sex, sex, sex—and in graphic detail. I learned more about copulative verbs in that hour than I ever learned in high school English.

The name "Dworkin" was bandied about throughout the session. I hadn't realized old Ron had written on these topics,³² and I certainly didn't recognize the usual Dworkinian language.

The f-word has apparently become a term of art, and it has lost something in translation. When I was an undergraduate, prowling Boston's Combat Zone, I paid good money to hear women use words like that on stage. Now the words come with no extra charge, but they're buried in a lot of sociological baffle-gab. (And who's this guy, Herman Newdics, that everyone talks about?) The material was certainly presented in a clearer, more straightforward fashion in the Combat Zone.

In classroom A, I felt alone. These folks did speak in a different voice, and I wasn't convinced it was deeper.

When I left the classroom, I was really all alone, except for the custodian, Jim Adam. Lacking the protection of tenure, he had to stay no matter what, even on a Thursday afternoon.

I had been abandoned by the faculty, and I needed to get to the airport. After we had chatted for a while, Adam volunteered to take me: "No one is here to even know I'm gone."

Adam, it turned out, is an occasional scholar himself, one of the

30. See *supra* note 12.

31. See Robin West, *Jurisprudence and Gender*, 55 U. CHI. L. REV. 1, 2-3 (1988) ("[w]omen are in some sense 'connected' to life and to other human beings during at least four recurrent and critical material experiences: the experience of pregnancy itself; the invasive and 'connecting' experience of heterosexual penetration . . . ; the monthly experience of menstruation . . . ; and the post-pregnancy experience of breast-feeding.").

32. I now know that he hasn't, at least not for public consumption. *Andrea Dworkin* has. See, e.g., ANDREA DWORGIN, *INTERCOURSE* (1987).

army of humanities majors doomed to academic unemployment. On the way to the airport, he told me about his frustrating life in the law school. He had kept library discards and had built a substantial collection in the school basement. "I love books," he said, "and it's good to have someone to talk to about books and other serious matters. I miss that at the law school."

Nice guy. I promised Adam that I would read any draft articles that he sent me. I'm happy to report that, except for his failure to integrate the rich literature on grazing theory, Adam's two most recent pieces are first-rate.

And so I left Scoff and the Scoff Law School, never to return. Although I did get an offer from Scoff, I took a job at one of the institutions I visited later.³³ I'd like to say that I made my decision based on some grand principle, but money was the tipping factor. Grand principles canceled each other out. The other schools turned out to be exactly the same as Scoff Law.³⁴

33. Therefore, I write from experience. Cf. Barbara Gamarekian, *Authors Muse on the Sense of Place*, N.Y. TIMES, Oct. 3, 1990, at C12 (quoting novelist-historian Shelby Foote: "[Faulkner] was a Southern writer because it was a place he grew up in and knew. Anything else would have required research, which was something he could not abide.").

34. See *supra* note 10.