

DEVELOPING LAWYERING SKILLS AND THE NURTURING OF INHERENT TRAITS AND ABILITIES*

Bruce R. Jacob**

I. INTRODUCTION

The student's period of study and preparation in law should be an interesting and exciting time. While in law school, the lawyer-to-be acquires knowledge and skills that will enable him or her to help people in difficulty — to assist persons who need effective legal representation to protect liberty or property, or, in a capital case, to prevent loss of life. There is much to learn, and the realization that one is preparing for a profession in which it will be possible to help people so significantly makes the study of law a fascinating endeavor.

By the time the student begins law study, his or her character and habits have to a large extent been formed. In this Essay, I identify inherent character traits and abilities that the fledgling law student should possess before he or she begins law study if he or she is to become an effective and ethical lawyer. Next, I discuss requisite lawyering skills that should be developed and explain how these skills can be effectively nurtured during law school. Throughout this paper and in conclusion, I emphasize how these traits, skills, and abilities are applicable in the practice of law, which may be the most difficult and demanding of the professions. Thus, it is essential for the health of our legal system that law school training be rigorous,

* © Bruce R. Jacob, 2000. All rights reserved. This Essay is an update to the Author's Essay of the same title, 12 STETSON L. REV. 577 (1983).

** Dean Emeritus and Professor of Law, Stetson University College of Law. B.A., Florida State University, 1957; J.D. (replacing LL.B.), Stetson University College of Law, 1959; LL.M., Northwestern University, 1965; S.J.D., Harvard Law School, 1980; LL.M. (Taxation), University of Florida, 1995; Assistant and Associate Professor, Emory University School of Law, 1965–69; Associate Professor and Professor and Director of Clinical Programs, The Ohio State University College of Law, 1971–78; Dean and Professor, Mercer University Law School, 1978–81; Vice President of Stetson University and Dean and Professor, Stetson University College of Law, 1981–1994.

and that graduates of our schools enter practice imbued with the high ideals of our profession.

II. IDENTIFYING ESSENTIAL LAWYERING SKILLS

A. Inherent Attitudes and Abilities That Are Necessary in Becoming an Outstanding Lawyer

Before one enters law study for the purpose of becoming a practitioner,¹ he or she should possess certain inherent traits and characteristics. The group of attributes described in this section do not constitute an exhaustive list of every characteristic essential in lawyering. Only the more important ones will be discussed; in doing so, I hope to aid the reader in understanding the nature of law practice and the demands confronting each lawyer.

One of the most important character traits of outstanding lawyers is courage. Closely related is the trait of independent-mindedness. A lawyer must not be one who always runs with the crowd or feels pressured by society to conform to the common mold. He or she must have the intellectual integrity to make decisions independently and the fortitude to abide by them even in the face of hostility from others. For example, a criminal defense lawyer may be spat upon by outraged citizens while walking through the corridors of a courthouse on his or her way to defend an especially unpopular client. Immense personal courage is necessary in such a situation if one is to provide the best possible defense. Similarly, a lawyer who becomes aware of the fact that the officers of a client corporation, to assure a large profit, are making a decision which will result in unconscionable pollution of the environment, must be sufficiently independent-minded to determine that his client's decision is wrong, and must have the courage to advise the officers against making such a decision. The attorney must do so even though the attorney knows that in so advising he or she may lose that corporation as a

1. Not all those who enter law school intend to practice law. Some desire the law degree for the purpose of entering business, government service, or other fields of endeavor. Most of what is said in this Essay pertains to the practice of law and to those who wish to become practitioners, and not to those who expect to use the law degree in other fields.

client and may lose the fee income generated from that client.

Another essential characteristic in lawyering is personal integrity. There is no place in our profession for one who is not completely honest and straightforward in dealing with others. A lawyer may be confronted with opportunities to be dishonest and to act fraudulently. For example, a tax attorney might be tempted to place an incorrect date on a document donating property from a client to a charitable organization to gain a monetary advantage under the federal laws regarding taxation. To do so, however, would violate the foremost ethical principle of our profession — that the lawyer must be honest and trustworthy.

A lawyer, moreover, should be a person who has an innate sense of right and wrong, and a strong sense of fair play. An attorney should become outraged when observing the mistreatment of another because of that person's poverty, youth, old age, mental or physical condition, or when observing an instance of discrimination based upon race, ethnic background, sex, age, or religious belief.

The prospective lawyer should be openminded and receptive to new ideas and must have the ability to change his or her mind when confronted with evidence that demonstrates the inaccuracy of a long-held belief. To do this, an individual must not be rigid or narrowminded or bound to provincial biases and attitudes. The lawyer-to-be should have the capacity to break free from the restraints of his or her background. For example, one born into a family or into a geographical area in which pro-union sentiment is strong must be able to set aside those biases and attitudes and make decisions free of such prejudices if he or she is to render fair decisions in cases involving union activity.

Care for one's fellow man is another essential characteristic of the outstanding lawyer. The lawyer should be concerned for the welfare of the poor, the weak, and the helpless in society, for they need his or her protection and the protection of all lawyers and judges. Being licensed to practice law is a privilege that carries with it responsibilities including that of providing legal services to the poor without a fee, even at personal sacrifice. The lawyer should be unselfish and willing to work without remuneration when necessary.

The lawyer must be capable of hard work and must manage time wisely. Law practice is no place for one who is slothful. A good lawyer is diligent; he or she must have a strong sense of personal responsibility for the completion of tasks undertaken on behalf of a

client. The lawyer also should be persistent. If the interests of the client require that he or she work night after night preparing a client's case for trial, the lawyer must do so. The client's interests — within the boundaries of professional responsibility — are always the lawyer's primary concern. The lawyer must possess the necessary drive and determination to competently represent the client. He or she must be thorough and meticulous in his or her work, and should strive to be a perfectionist, one satisfied only with work product of the highest caliber.

To become an outstanding lawyer, one must be a good listener. The lawyer should have the capacity to listen and absorb information rapidly. He or she must be able to accept the criticism of others and be able to improve his skills based upon the criticism he or she receives. To become an effective lawyer, one must be able to communicate in writing and orally in such a way as to persuade rather than antagonize, and in such a manner as to create good will rather than animosity. The outstanding lawyer is a person who reaches conclusions after obtaining and weighing all the facts. Finally, he or she should use common sense and good judgment; it is because of this good sense and good judgment that others look to the lawyer for wise counsel and advice.

In addition to listening to and welcoming the criticism of others, a lawyer must constantly criticize his or her own work and strive for perfection in every task. Rarely should he or she be completely satisfied with his or her work; only by continually reviewing and re-reviewing what he or she is doing will the lawyer reach his or her maximum potential as an effective and ethical lawyer.

B. Abilities and Skills to Be Nurtured and Developed While in Law School

Thus far I have noted the characteristics that are marks of an outstanding lawyer. Ideally, each law student should possess these when he or she begins law school. Of course, these qualities can be nurtured and developed throughout law school and afterward.

In addition to nurturing these qualities, the law student must begin to develop skills that he or she will need in practice. I say "begin" to develop because as the lawyer-to-be will learn, lawyering is a process that commences on the first day of law school and does not end until retirement from practice. Becoming and remaining an

outstanding lawyer is a lifetime process. The knowledge, skills, and abilities that I describe in this section are in some respects “new,” but they also incorporate the characteristics described in the previous section, for the law school program builds upon them.

There is much to learn. Throughout law school, the student should acquire an understanding of the legal process, including an understanding of the differences among the three branches of government — legislative, judicial, and executive — and of the significance of the separation of powers concept inherent in our constitutional system. An appreciation of our federal system and a knowledge of the respective powers of the federal and the state governments are essential. Further, the student must learn how various state and local governments, including county and municipal agencies, function in relation to each other and in relation to federal agencies.

The differences between trial courts and administrative agencies, on the one hand, and appellate courts and agencies, on the other, must be understood. Furthermore, the student must gain an appreciation of the importance of procedure in our judicial and administrative systems. The distinction between procedural rules that facilitate the orderly and just processing of cases and the substantive rules of law that govern relationships in society must be understood.

Distinctive jurisprudential theories about the nature of law as well as historical explanations of how laws evolve also are vitally important. The distinctions between judge-made law and statutory law must be understood, as should administrative rulemaking as a method of lawmaking. The student must realize that the lawyer becomes a “lawmaker” when he or she prepares a will, trust, contract, or other document that determines and orders relationships between persons or business entities. The distinctions between “public” (governmental) and “private” law, and between “civil” and “criminal” law must be understood.

Not only must the student acquire knowledge in law school, he or she must also enhance certain intellectual skills. Developing the abilities to gather, assimilate, analyze, and utilize factual information are important aspects of the training of the lawyer-to-be. Factual information can be obtained from opinions of appellate courts; from transcripts of trial proceedings; from documents and records; and from clients, witnesses, and other sources. To be a good lawyer,

one must be able to sift out the truth. This involves the abilities to read comprehensively, listen attentively, and absorb information patiently with an open, unbiased mind. (The fact that the lawyer is biased toward one side in a situation could cause him or her to overlook facts that support the other side, thus obscuring the truth.)

In addition, the law student and lawyer must communicate effectively to obtain factual information through correspondence and through interviewing persons. Thoroughness and persistence are, of course, the keys to effective factfinding. The lawyer must not be satisfied with less than the entire truth as best he or she can determine it. Further, he or she must exercise common sense and good judgment in deciding which facts are true. The lawyer must not be easily swayed by rumor. Finally, he or she must sort through the factual information available and separate the significant and relevant information from the insignificant and irrelevant.

The law student must develop the ability to think critically and analytically to solve legal problems. In this process, the student must learn to assemble all available information and select from this mass the significant data. With knowledge of applicable general legal principles, he or she then must research and select those precise principles that are most relevant in solving the problem. Next, the selected principles must be applied to the relevant facts. This process often leads to a solution. Of course, it is important that the problem solver be able to provide others with a reasoned explanation of his or her solution.

The above example is one type of legal analysis that the law student must, in time, master. Another form involves analyzing the meaning of a critical phrase in a statutory provision. In doing so, the student may look to the plain meaning of the phrase, if there appears to be an obvious meaning. If not, he or she may have to ascertain the intent of the framers of the provision. In this regard, the historical background of the statute will be important. Construing words in a way that provides logical consistency to various sentences and sections of the statute may be relevant in determining the meaning of a particular provision. Whether a particular phrase makes sense against the backdrop of the statute as a whole must be a concern of the interpreter. Finally, in ascertaining the meaning of any words in question, the lawyer-to-be should attempt to assess possible societal effects or impacts of various interpretations.

A lawyer needs to be analytic when he or she drafts a legal doc-

ument. In drafting a contract, for example, the lawyer seeks to minimize the danger of future conflict or disagreement between the parties. To accomplish this, he or she must attempt to anticipate every factual scenario and every issue that could subsequently arise.

The student while in law school must acquire an interest in legal research and become familiar with various research materials that are available to lawyers, including techniques such as computer-assisted research. The student must learn to appreciate nuances that differentiate one judicial opinion from another, or one statutory provision from another. Also, he or she must develop the ability to master an enormous amount of detail in a limited amount of time. Spending long hours in the intricate details of a problem is necessary both in law study and in practice.

If we were to ask students and practicing lawyers for their views on what a law student primarily should be learning while in law school, many would say a knowledge of the rules and principles of law. While it is true that one must acquire at least an elementary knowledge of rules of law to pass a bar examination, it is extremely unfortunate that some students believe that preparation for a bar examination by learning rules is the most important phase of their legal education. Such a belief is a misconception and is, in many ways, detrimental to a student's learning potential. Knowledge of legal rules is not the primary objective of law study. Since legal rules change and evolve, specific knowledge tends to become obsolete within a relatively short period of time.

Other learning objectives of a law student are more worthwhile and long lasting. These include learning how to think and reason critically and analytically, knowing how to find principles of law through effective research techniques, and gaining an understanding of our legal system and how its institutions and participants function. These objectives are more significant than obtaining temporary knowledge of specific rules. Learning so-called black-letter law is necessary to a degree, but it should not be the teacher's or the student's primary goal.

By the time one enters law school, the student should have considerable skill in writing and drafting. These skills should then be sharpened during the period of law study. There are distinctive forms of legal writing to be learned. In one type, expository writing, the student explains and analyzes legal principles that govern a particular area of the law. Expository writing may go beyond a mere

explanation of the law by urging that changes and suggested improvement be made in that given area. Many law review articles typify this form of writing.

Another type of legal writing is essentially argumentative: the writer disputes claims or assertions of the lawyer representing the opposing party. Writing in which the lawyer attempts to persuade others to a particular point of view is typified by briefs filed with appellate courts and written motions submitted to trial courts. It is important in these writings that the lawyer not become overzealous and mislead the reader. Persuasive writing, like all other legal writing forms, must be factually accurate, complete, and truthful.

Planning and preventive law present lawyers with opportunities for yet another writing form. Drafting legislation and administrative rules for possible enactment are examples. Also, drafting contracts or trust agreements that anticipate future problems and responding to them in advance represents a form of preventive law practice through legal writing.

In developing communicative skills, the student first must learn the mechanics of legal writing. This includes the effective use of sources and authorities such as appellate decisions, statutory material, textbooks, and scholarly articles. Proper methods of citing and giving appropriate credit for the use of the ideas or work of others, through footnotes or other appropriate means, must be understood and followed.

Whatever the form of writing, the student must learn to clearly state the issue to be dealt with. He or she must be meticulous in utilizing the information available. In addition, the student's ideas must be logically organized throughout his or her presentation in such a way that the ideas build one upon another in a rational, orderly progression. Upon reaching a conclusion the student must be able to state the reasons for his or her conclusion. Finally, the writing should be as concise and readable as possible.

The lawyer must learn to be an advocate for his or her client in a variety of forums, both formal (such as hearings before trial courts, appellate courts, or administrative agencies) and informal (such as meetings with opposing counsel or public officials). In certain forums the critical issue is factual. For example, in a robbery trial, the main issue may be whether testimony of the victim identifying the defendant as the perpetrator is accurate. On the other hand, an issue of law is raised when an advocate appeals what, in

his or her view, is a trial judge's incorrect instruction to the jury regarding the rules governing the case. Many cases, of course, involve a combination of factual and legal questions.

To be an effective advocate, a lawyer must have the ability to speak persuasively. This involves getting directly to the point and dealing with an issue concisely yet thoroughly. The key to effective advocacy is thorough preparation. The lawyer must be able to anticipate questions and have ready arguments in response, if and when they arise.

The persuasive advocate, in addition, is one who understands his or her audience. He or she should know the kind of argument that will be most convincing to a judge, a jury, or an administrative hearing board. He or she must not become so engrossed in his or her own presentation that he or she forgets to observe and be sensitive to the reactions of his or her listeners. For instance, if a judge before whom an argument is being made has a puzzled expression on his or her face, the advocate should observe this and respond by attempting to resolve the confusion that apparently exists in the judge's mind. Also, if a judge indicates through words or actions that he or she is about to rule favorably, the advocate should exercise good judgment by discontinuing the argument. (Some advocates, unfortunately, do not know when to stop. They continue arguing in such a situation and occasionally change the mind of the judge into ruling unfavorably.)

In summary, lawyers must be good advocates at both the trial and appellate levels. In these forums, adversaries and lawyers are pitted against each other. The lawyer uses available sources including witnesses, evidence, and arguments to gain favorable decisions.

Being an advocate is not the only — or necessarily most important — role of a lawyer. Other lawyering skills that must be developed include effective interviewing and counseling. The student should learn, while in law school if possible, techniques for interviewing witnesses and clients. Furthermore, he or she should seek to become proficient in counseling clients. To a large extent, counseling is designed to keep a client out of court, to minimize the possibility of future litigation. Counseling includes not only giving legal opinions but on occasion involves providing financial advice, sharing common sense, and offering emotional support. The lawyer must, of course, be aware of his or her limitations. He or she should know, for example, when to refer a client to experts in other fields of law, or to

nonlawyer specialists, such as accountants or marriage counselors.

To be effective in interviewing and counseling, the lawyer should be a person who genuinely likes other people. He or she should enjoy talking with clients and should take a sincere interest in their problems. The lawyer must also be a good listener, one who does not readily jump to conclusions. He or she should listen to all available information before reaching any decision. Finally, to be a good interviewer, the lawyer should meticulously prepare for the interview. Interviewing skills can be improved through practice under instructor supervision.

Another important lawyering activity consists of efforts as a conciliator in settling controversies between disputants. An employer who fires a worker may be confronted with a claim by the former employee for damages resulting from an alleged unlawful breach of the employment contract. If the lawyer for the employer determines that the claim has merit, he or she may work out a monetary settlement with the former employee through the latter's attorney before a lawsuit is filed, thereby obviating the necessity for costly, time-consuming litigation. Being a conciliator or negotiator, of course, requires tact and a desire to help resolve the problems of others, combined with the ability to communicate persuasively. These characteristics and abilities can be nurtured and developed while in law school.

There is little in our present legal system that is completely new, as it is predicated upon centuries of experience and experimentation. This development has occurred not only in this country but also in other Anglo-American "common law" countries, in the "Civil Law" countries of continental Europe, and in other parts of the world.² The historical evolution of our legal systems must be under-

2. The term "common law" describes the legal system that developed over the last thousand years in England, and that was "exported" to the colonies that later became the United States. The present system in the United States is based upon this "received" common law. In this system, lawmaking is accomplished largely by judges as they enunciate decisions in individual cases. The rule of each case takes on precedential value in future cases involving similar factual situations and similar issues. The term "Civil Law" refers to a legal system that traces its origins to ancient Rome, in which codes or statutes, rather than judge-made rules, are relied on for authoritative guidance.

The term "civil law" has another meaning. That term is also used to differentiate the area of law relating to problems involving only private individuals, as opposed to "criminal law" problems that involve prosecutions by the government against private individuals.

stood and appreciated. The student should learn how complex legal systems develop.

The study of law cuts across all areas of human knowledge. The structure of our legal system itself is a product of political processes. Legislative bodies and administrative agencies deal with issues of economics, science, health, and other fields of knowledge in formulating rules by which society is regulated. For example, in the practice of law, a lawyer may be called upon to litigate a dispute arising under a road construction contract. To fully prepare the case for trial he or she may have to learn about various aspects of civil engineering. In a copyright infringement case involving a piece of music, a lawyer may need to acquire an extensive understanding of music theory. And, in a case involving a compensation claim by a worker disabled on the job, a lawyer must become familiar with current medical knowledge relating to the injury in question.

Because the practice of law touches every field of human enterprise, the law student should welcome opportunities to learn about all areas of human endeavor. He or she should understand the interrelationships among law and the social, behavioral, and physical sciences. For these reasons, law schools have added to their curricula courses and seminars on subjects such as Law and Economics, Law and Sociology, Psychiatry and the Law, and Law and Medicine.

Earlier I mentioned that an inherent ability of a good lawyer is his or her capacity for self-criticism. The lawyer should be one who constantly seeks to improve his or her abilities and the quality of his or her work product. This characteristic is, to a large extent, an innate trait but can be improved throughout the period of law study. The student should periodically review his or her work and ask whether he or she has done a given task to the best of his or her ability. Drafting a written document, for example, should not be considered completed until the writer has edited and rewritten several drafts. A good lawyer continually edits, revises, and improves his or her work.

In accepting the *privilege* of practicing law, the lawyer accepts certain responsibilities. The legal profession has developed *Model Rules of Professional Conduct*³ governing the conduct of members of

3. These rules were developed by the American Bar Association and have been adopted in many states to govern the members of the practicing bar. Similar rules gov-

the profession. For example, the Rules strictly prohibit the commingling of the attorney's and the client's funds. Also, the attorney is required to be forthright in making representations before any court. A thorough knowledge of these rules should be acquired while in law school. The student should develop a sensitivity to ethical problems that can arise in the practice of law.

As an "officer of the court," a lawyer has the duty not only to be ethical in his or her own dealings with the court and other attorneys, but he or she also has the responsibility of reporting ethical violations by others. Furthermore, the lawyer should assume his or her measure of responsibility for the overall improvement of our legal system. He or she should support ways to process cases more speedily, reduce costs of litigation, simplify court procedures, and provide the poor better court access. In sum, the new lawyer should learn the importance of professional responsibility.

Also, while in law school the new lawyer-to-be should develop a sense of justice that should transcend previous attitudes. Probably every practicing lawyer has had the experience of negotiating with an opposing attorney who was rigid and unwilling to attempt to do justice for all parties involved in the situation. Likewise, every lawyer probably has had the unfortunate experience of appearing before a judge who took a negative view of his or her responsibilities. The jurist may have read statutes in such a way as to work enormous hardship on parties appearing before him or her. Instead of looking at the world narrowly and rigidly, the lawyer and judge, if they are to achieve justice, should be openminded. Rigidity and narrowmindedness have no place either on the bench or in law practice.

III. THE PROCESS OF DEVELOPING LAWYERING SKILLS WHILE IN LAW SCHOOL

Up to this point I have attempted to: (1) identify the inherent traits that one who aspires to become a lawyer should possess; (2) describe how those traits should be nurtured; and (3) identify the abilities and skills which the student should develop while in law school. Next, I will describe how objectives (2) and (3) are accomplished.

A. The Learning Process in a Typical Law School

For most law school courses, the student will use a “casebook” that contains, mainly, excerpts from appellate court opinions. Class discussion centers on these appellate opinions. In these cases, a trial has been held, and the losing party has appealed. In the appellate court, testimony is not taken; instead, written briefs containing legal arguments are submitted and judges hear oral arguments by counsel.

In their opinions, appellate courts usually summarize the facts as found below by the trial court. Then the issue on appeal in the case is identified, a decision reached, and an explanation given of the court's reasoning in arriving at its decision. In preparing for class, new law students are expected to “brief” assigned appellate cases. Briefing involves a written summary of a court's opinion. The purpose of briefing is to train the student how to think like a lawyer. By identifying the significant facts and the principal issues in the case, the student learns how to sort out the essential from the non-essential and to get to the heart of the controversy.

In a typical first-year classroom, the professor asks a series of questions about each appellate case. Students respond to the questions and may direct questions back to the professor, who in turn may redirect other questions back to the student. It is important for each student to closely follow the dialogue and to attempt to answer each question, whether called upon or not. By briefing appellate opinions, and by participating in and closely following class discussions, the student begins to develop analytic skills.

In a course on Legal Research, the student learns how to use resources available in a law library. Taking part in seminars and the writing of scholarly research papers trains the student how to do meticulous, careful research and writing. And, for some students, selection as a member of the law review staff makes possible intensive practice in scholarly legal writing. Admission to law review usually is open to students who have attained high academic records during their first year of study. At certain schools, students may be admitted on the basis of a writing competition as well. Other writing experiences may be available to students in their second and third years in specific courses and seminars.

In most law schools, the student has the opportunity to write a

brief on a case and then orally argue that case before a mock appellate court. This experience improves a student's appellate advocacy abilities. A course on Trial Practice or Trial Advocacy, on the other hand, provides the student with experience as an advocate at the trial level. The student learns to select a jury, give an opening statement, conduct the direct examination of his or her own witnesses, cross-examine opposing witnesses, interpose objections to inadmissible evidence, make proper motions, and make the closing argument to the jury.

Abilities in the areas of interviewing and counseling can be enhanced through participation in client counseling competitions. In many law schools, these competitions are extracurricular in nature; the student-participant is not awarded course credit. In other schools, courses in these areas are now being offered.

Another way of obtaining expertise in interviewing and counseling is through participation in clinical programs. Such programs involve representation of clients in actual cases under the supervision of faculty members and practicing attorneys. Under court rules in effect in many states, third-year law students are allowed to conduct trials and hearings in courts and before administrative bodies under attorney supervision. Most of these programs involve representation of poor persons through work in legal services and public defender offices. Other programs may include the prosecution of cases in criminal courts. Students in these clinical programs gain valuable experience in investigating cases, interviewing and counseling clients and witnesses, drafting pleadings and motions, researching legal issues, preparing for trial, and engaging in negotiations and settlements, as well as in participating in actual trials and appeals. A pedagogically sound clinical program does more than provide experience in these various aspects of practice — it involves group sessions and conferences with the supervisor to analyze and criticize a student's work in the program. Mistakes are then identified and corrected.

Finally, I must mention the “outside” experience of clerking for a law firm. It has its merits and demerits. Some of the great lawyers in our history learned their profession through the apprentice method of reading law by working as a clerk for years under an experienced member of the bar. Included are John Adams, Abraham Lincoln, and Justice Robert Jackson of the United States Supreme Court. Learning under the tutelage of a practicing lawyer can be an

excellent method of training for the profession, but only if the lawyer is an excellent practitioner; only if he or she provides challenging, and varied work assignments to the apprentice; *and only if the lawyer spends a great deal of time criticizing and correcting the work of the apprentice*. Unfortunately, many practicing lawyers have neither the inclination nor the time to provide intensive training and feedback to a law clerk. Consequently, many clerks find themselves doing nonchallenging or repetitive tasks while working in a lawyer's office.

The student should not, under any circumstances, work in a law office during his first year of law school. There simply is not enough time to study and learn the course work and also have time to work as a law clerk.⁴ Furthermore, even during the second and third years of law school, the student should not work outside if such work interferes with his ability to do law school work. A full time law student may not work more than twenty hours per week in a law firm under an American Bar Association regulation applicable to accredited law schools.⁵ In summary, the student who works as a law clerk should keep in mind that the experience is valuable from an educational standpoint only if: (1) the work is challenging; (2) he or she is allowed to spend sufficient time on each task to do careful work, without developing sloppy habits; and (3) the lawyer-employer takes time to explain each task and provide instructive feedback.

B. Innovations in Teaching and Learning in Law Schools

In some law schools, each first-year student is placed in at least one small enrollment section of a basic course, e.g., Contracts, Torts, or Real Property. In a section with twenty-five or fewer students, writing assignments periodically can be given. These are graded, with feedback. In a small section, the student has a greater opportunity to participate in class discussions. In most law school classes, with the exception of seminars, large enrollments (seventy-five stu-

4. An exception to this statement exists in the case of students in accredited part-time law school programs, but under no circumstances should a full-time law student expect to be able to work in a law firm while in his or her first year of law study. The pressures of law school are very great during the first year, and work outside the law school during that year is highly inadvisable.

5. A student is considered full time if "the student is enrolled in more than 12 class hours." AMERICAN BAR ASS'N, STANDARDS FOR APPROVAL OF LAW SCHOOLS, Standard 304 (1999).

dents or more) make written assignments impractical. The instructor ordinarily does not have time to periodically grade seventy-five written assignments and provide criticism of the assignments for each student. However, some law schools are making efforts to reduce course enrollments and teaching loads to make written assignments possible. Ideally, every week while in law school the student should be required to do legal writing of the kind and variety that lawyers do. The grade for each course should be based on a variety of work rather than only on the final examination.

Interdisciplinary courses, such as Law and Medicine and Law and Economics, constitute valuable additions to the law school curriculum. Innovative clinical programs also are being tried at many law schools; these programs enable the student to gain experience in representing clients in areas of the law other than criminal practice and legal services on behalf of the poor. For example, clinics dealing with problems of juveniles, the mentally ill, the elderly, jail and prison inmates, and members of labor unions are being offered in some schools.

Pretrial preparation skills have long been ignored in most law schools. However, a few schools now offer courses that concentrate on fact-gathering and preparation for trial. Also, interviewing, counseling, and negotiating simulations are now being emphasized in a number of schools. In short, innovations in curricula are occurring as more emphasis is being placed in the skills area.

IV. CONCLUSION

To become an outstanding lawyer, one must be courageous, independent-minded, honest, conscientious, and ethical. These traits should be nurtured and further developed while in law school. Concurrently, new abilities and skills should be acquired. The student learns to self-teach and to be self-critical. This educational process, however, does not end at graduation. It continues throughout a lawyer's career. Thus, to become an outstanding lawyer, one must embark upon a lifetime of learning. That journey begins on the first day of law school.