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# AFTER LAW SCHOOL—WHAT THEN?

By H. WILLIAM IHRIG\*

**A**FTER a law student is admitted to the bar his difficulties begin anew. He is then thrown into the competition of making a livelihood as well as into the competition of protecting his clients' interests through his own abilities.

A knowledge of the general principles of law is only a factor in his success in both of these endeavors.

In addition, as a general rule, there is the equally important factor of his effective personality in its ramifications of being able to please, influence, persuade, stick to his problems until solution, to invite business and to adapt himself to his situations—in general, his abilities to fight and accomplish in the struggle for the survival of the fittest, in the shifting and complex situations of daily life.

There is the factor of broadness of mind as to experience and learning contributing to his understanding of the true situations and relationships with which he must deal both as to himself, and on the part of his client's personal and business relationships, to enable him to deal effectively in these respects.

In addition, there is his own particular outlook and practical grip on life as it is, as opposed to any individual, ultra-idealistic or biased viewpoint that might be his heritage from a narrow and protected course of previous life. And there are his courage, willfulness, and strength of mind in his moral and mental operations.

These all react upon his success and are related to his inner nature, his daily worries, his personal position of financial independence and his own needs in relations to daily life.

The first big problem that faces the law student on admission to the Bar is the question of how to utilize his knowledge to bring himself success and livelihood.

The position of a lawyer has been termed parasitical by a brother attorney. It is not so. He furnishes economic utilities of advice and assistance that are social as well as individual benefits. This very factor causes the lawyer to have to adapt himself and his method of practice to the economic and social life he seeks to serve in a professional capacity. Thus he finds the most outstanding facts of the complex daily life he deals with to be specialization, division of labor and the dependence of one person upon another. To assist him in making

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his way in our complex life it is well if the young lawyer's education has included general principles of economics and economic history, courses in finance, transportation, industrial and business administration, etc. These assist him in understanding his position.

This article will not further assume the problems of the lawyer who turns to some other branch of business as his daily endeavor, but rather those of the young attorney who gives his major attention to the profession for which he has attempted to fit himself.

The law student's attention from the day he enters law school, and if possible before that time, should be to secure a connection with some law office in order as soon as possible to join his theoretical knowledge with the actual practice of law which law schools cannot give—because one learns practice from actual experience.

Further, in the writer's opinion, the practice of law is so broad and technical, that after a law student has secured a general education in the law, and while he is getting a general practice in the first year or two after admission to the Bar, he should attempt to specialize in some one general field of law. The writer also believes that specialization should be followed out along a horizontal line or along a parallel one, i.e., probate, real estate, corporation, negligence, patent, commercial, collection law, etc., or by a division between counsellors and solicitors, and a separate field of barristers, but that one attorney cannot expect to become proficient in all fields. He also believes that the general practitioner in his important trial work should have as counsel capable assistance in order to adequately serve his client. The field of law is too broad to cover all of it well.

A portion of the practice of law that is not learned in law school has to do with pleading and practice and the usage of these to the advantage and protection of one's clients.

In this respect the first distinction is involved in the various courts to which one has to present his client's business. Taking Wisconsin as an example, one finds here the Federal and State court systems. There are the constitutional and statutory origin and provisions respecting both systems to be learned. Then there are the rules of the various courts that are promulgated to insure orderly conduct and judicial action on the matters before the courts. There is the further fact of the relation of the courts to each other and the fact of the varying jurisdiction—original, concurrent, and appellate—and the limitations in these respects of each particular court.

In order to best understand this situation one can best express the situation by taking a particular case. Assuming a young lawyer, who has just been admitted to the Bar and who is ready to practice, for his own reasons chooses some particular locality in which to start out. He

either joins some established office where he can readily obtain advice but which, none the less, does not endow him with experience, or he commences practice for himself or he opens a joint office with another novice like himself for whom he feels some attachment and with whom he went to school.

We will also assume that he goes to a large city which merely allows for the more rapid occurrence of the various situations that arise for solution by an attorney in all portions of the state. In order to commence an action for his client, the young attorney's first problem will be to determine what courts have jurisdiction of the subject matter of his suit. Along with this he will have to determine whether, if he has available a local court for the trial of civil suits which has concurrent jurisdiction with the circuit courts of the state, he could proceed more advantageously in the local court mentioned. His first question would be whether the court would have jurisdiction of his suit.

While our state court system was formed with the expectation that justice courts, county courts, circuit courts and the supreme court would suffice to handle our legal problems, time has brought the enactment of numerous special laws by the legislature creating municipal courts in different counties of the state. The jurisdiction of these courts with reference to the justice and circuit courts must be studied in order to understand one's position in them. The acts creating these courts and amendatory acts must be studied not only with reference to what suits may be tried in them but also whether appeal from those courts is to the circuit court or elsewhere. As a matter of practical advantage one should determine the status of the calendar of cases in these courts as compared with that of the circuit court of the particular circuit to find out where one may expect to get to trial sooner, and, if an appeal is expected, how much time is likely to be spent in each instance.

A further question may arise in securing jurisdiction of the person as well as of the subject matter as was pointed out above. With reference to jurisdiction of the person one must examine the acts creating and empowering the particular local court he has in mind as possibly more desirable than the circuit court. Usually he will find that the local court has only jurisdiction of persons that can be served in the particular county involved, with the resulting fact that service of the summons on a person in another county is of no avail to give jurisdiction unless he submits to jurisdiction by acts constituting a personal appearance in court. Having these factors in mind, the best procedure available for a young attorney when commencing to practice is to find out what courts meet in his county, and then to study the statutes creating them, as well as their respective court rules, and then to visit with

the clerks and assistants of the various courts where he will obtain much valuable advice. As an illustration, in civil suits in Milwaukee, assuming that the case does not involve the Federal district court where trials may be had sooner than in the circuit court, one finds available the civil and the circuit court. The return day of actions commenced in civil court may be between six and fifteen days after issuance and service of the summons while in circuit court the return day is twenty days after service of the summons. In civil court actions up to \$50 are tried in a small claims court on the return day. Cases up to \$200, but above \$50, are also tried on the return day but in the branch of civil court that has been assigned these cases. These cases are generally governed by Wisconsin Justice Court rules except as modified by statute. Then in civil court cases that it has jurisdiction of up to \$2,000 and above \$200, are assigned after issue is joined, to the court's general calendar, where trial may be had more quickly than in circuit court. The cases up to \$200 are governed as to procedure by Justice Court practice which is distinct from the circuit court practice applicable to the cases above \$200. The two outstanding differences being that in the actions below \$200 the pleading and general handling of the case is very liberal and in the discretion of the judge, while in actions above \$200 pleadings must usually be in writing and there is more formality and occasion for technical handling of the case, and that in actions above \$200 written judgments and, if necessary, findings are essential to secure the entry of judgment. In civil court one also finds that the jury fee must be paid by the party wishing a jury trial before the time issue is joined or before the expiration of the day set for answer, otherwise trial will be by the court. While this practice may be of doubtful legality, in the circuit court one does not find this practice in existence. Other items showing distinct practices between different courts are as follows: in the civil court of Milwaukee County, if the summons is not accompanied by a complaint, a statement of the claim must be attached to the summons or the summons is defective; in circuit court one has no such court rule. In the civil court a case in which issue is joined secures its place and number on the trial calendar by the filing of the answer, while in circuit court a written notice of trial must be served and filed. In civil court a case secures its place on the trial calendar according to the date of the filing of the answer, while in circuit court the case, if issue is joined, secures the trial position of its filing number. In civil court one must file his summons on or before two days before the return day of the filing of the action is defective; in the circuit court one may file the summons when he wishes but risks delay in the trial of the suit by delaying filing.

Another matter that the young attorney must acquit himself with is

the variation in the forms of legal papers, writs, etc. used in connection with litigation. As he visits the various courts he practices in to learn how to get into court properly, and how to get ahead with his cases when there, and to secure copies of the rules and to be advised in all the procedural ways, and by-ways to be avoided, similarly he should inquire of the clerk for copies of all the forms that the clerk gives out for use in his office file so that he need not go to the clerk's office every time he wishes to get a form—although it would be well whenever he has a doubt to ask the court clerk whether his forms are being properly and timely filed and as to the next step. One always finds it more agreeable to ask beforehand than to be told of his error or omission afterward.

The young attorney should secure the use of *Winslow's Forms*, of legal procedure in three volumes as a necessary assistance in the preparation of pleadings, etc., which cannot be obtained from the court clerk's office or from a legal blank supply company or stationer who handles them. He will also keep his files of forms in various types of actions that he has drawn up.

One should also obtain sets of blanks from the Register of Probate's office or from the County Clerk courts office to be used in county court proceedings.

There should also be obtained the sets of the various state forms for conveyancing and mortgaging to be used for real estate transactions that are handled in the office. One also might secure income tax blanks, court commissioners' blanks, Industrial Commission blanks, sheriff's office blanks, subpoenas for the various courts, forms of application for real estate brokers' licenses and other licenses that attorneys assist in obtaining. One should also have mechanics lien forms as well as chattel mortgages, conditional sales contracts and notes.

With reference to a library an attorney starting out in practice should be concerned with locating the best law library in the county which usually will be found in the county court house, or the one in the Capitol building at Madison, or in the law schools at Madison or at Marquette University and at various places in the larger cities of the state, and to secure permission to use the same. His own library will be small in comparison to any of these and will at first rarely consist of more than the Statutes and Annotations, *Callaghan's Wisconsin Digest*, a set of *Wisconsin Reports*, *Shepard's Wisconsin Citor* to date, the *Northwestern Reporter Advance Sheets*, and *Winslow's Forms* in three volumes.

Other matters of which mention might be made are the facts that an attorney cannot sign a bond in a case in which he is representing the person needing the bond, and that an attorney cannot advance the

fees necessary to commence a suit and that the plaintiff's attorney is liable for plaintiff's costs, making it necessary that a retainer be secured before an action is commenced.

While an attorney must keep his mind to his business to keep body and soul together, he also will have to do much work gratis—not only because he finds his clients cannot pay him, but also because he sees people in need of a slight assistance from him here and there. He should early join his local bar association and attorneys' clubs, as well as the State Bar Association, and cultivate the friendship and esteem of the other members of the bar and the respect and confidence of the judges before whom he practices.