



# Writing the Law

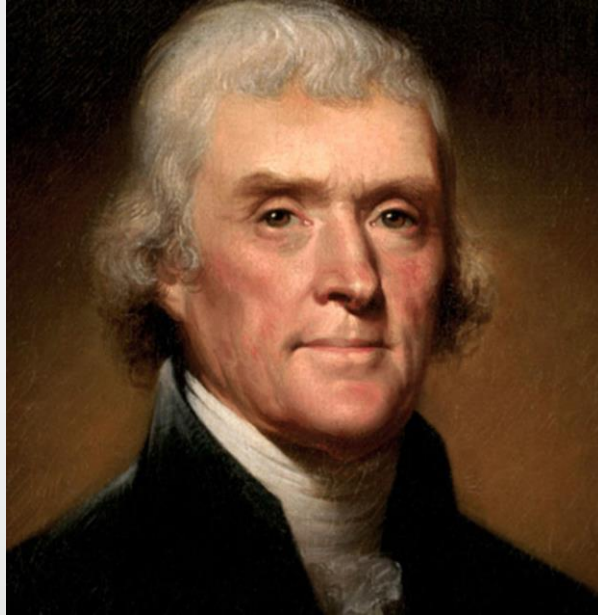
Developing the “Lawyer Citizen” Identity Through Legislative  
Statutory & Rule Drafting Courses

# Lawyer Citizen

- What is it?
- Is it still a relevant concept?
- What does it have to do with “legislative” courses?

# Lawyer Citizen?

Provide liberal education to lawyers combining academics and professional learning



Produce lawyers as statesmen in the new republic

Alexis De Tocqueville, DEMOCRACY IN AMERICA

“The government of democracy is favorable to the political power of lawyers; for when the wealthy, the noble, and the prince are excluded from the government, they are sure to occupy the highest stations, in their own right, as it were, since they are the only men of information and sagacity, beyond the sphere of the people, who can be the object of the popular choice.”



# Relevance of the Lawyer Citizen today?

- Government Lawyers?
- Public Interest Lawyers?
- All Lawyers?
- Do the Profession & Law Schools want to produce Lawyer Citizens?

# Legislative Courses & The Lawyer Citizen

- Jefferson on George Wythe's Moot Legislature:
  - "Our new institution at the College has had a success which has gained it universal applause. Wythe's school is numerous. They hold weekly courts and assemblies in the capitol. The professors join in it; and the young men dispute with elegance, method and learning. This single school by throwing from time to time new hands well principled and well informed into the legislature will be of infinite value."



# Legislative Courses & The Lawyer Citizen

- Experiential Legislative Courses
  - Make law students better lawyers (Pedagogy)
  - Make law students better citizens (Encourage law reform & social justice)



# What Type of Legislative Course?

- Experiential?
- Drafting?
- Research?
- Simulation/Mock Legislature?
- Service Learning?
- Observation?

# Aristotle on Learning By Experience (Nicomachean Ethics)

- “It was not by seeing frequently or hearing frequently that we acquired the senses of seeing or hearing; on the contrary, it was because we possessed the senses that we made use of them, not by making use of them that we obtained them. But the virtues we acquire by first exercising them, as is the case with all the arts, for it is by doing what we ought to do when we have learnt the arts that we learn the arts themselves; we become builders by building and harpists by playing the harp.”



# Experiential Learning

- D.A. Kolb model
  - “Learning is the process whereby knowledge is created through the transformation of experience.”
    - Learning Cycle
      - Four stages:
        - Abstract Conceptualization (THINK)
        - Active Experimentation (PLAN)
        - Concrete Experience (DO)
        - Reflective Observation (REFLECT/OBSERVE)
    - Can start anywhere in the cycle. Ideally, student goes through the cycle several times.

# Experiential Legislative Courses

- Overlapping learning cycles:
  - Drafting:
    - Brainstorming about a problem or issue (THINK)
    - Researching, collecting examples, planning legislative solution (PLAN)
    - Drafting bill (DO)
    - Presenting bill to committee (REFLECT) (Peer review, formative assessment)
    - Revise bill or revise argument for presentation to whole Senate

# Experiential Legislative Courses

- Process:
  - Learn about the legislative process abstractly (THINK)
  - Organize parties, committees, co-sponsor bills (PLAN)
  - Participate in Mock Senate(DO)
  - Observe others when they participate in Mock Senate (OBSERVE)
  - Consider and apply learning to more complex legislation (REFLECT)
- Service Learning:
  - Students repeat the cycle of research, drafting, process and reflection as necessary for the non-profit.

# ABA Standard 303(3)

- (3) one or more experiential course(s) totaling at least six credit hours. An experiential course must be a simulation course, a law clinic, or a field placement. To satisfy this requirement, a course must be primarily experiential in nature and must:
  - (i) integrate doctrine, theory, skills, and legal ethics, and engage students in performance of one or more of the professional skills identified in Standard 302;
  - (ii) develop the concepts underlying the professional skills being taught;
  - (iii) provide multiple opportunities for performance; and
  - (iv) provide opportunities for self-evaluation.

# ABA Standard 304

- Simulation (no real client)
- Clinic (client)
- Field Placement (possible clients)
  - Supervision, feedback, self-evaluation and a classroom instructional component required.



# Social Justice & Law Reform

- Movement toward more social justice education in law school
- Reminds students of why they came to law school
- Connect students to the social, political, & economic context of law
- “Disorienting Moment”

# Legislative Problem Solving

- Legislative action is a means of problem solving for clients
- Significant factor in law reform
  - Examples: Loving v. Virginia, Civil Rights Movement, Obergefell v. Hodges



# Experiential Legislative Courses

- Student Engagement
- Learning Legal Concepts & Skills
- Leadership & Creative Problem Solving
- Focus on Public Good



# Examples

- Service Learning project for organization assisting undocumented Immigrants
- Service learning for organization supporting homeless in the community
- Statute on water conservation
- Human trafficking project
- Guns in schools bill

# Citizen Lawyer

- The concept of “citizen lawyer” espoused by Thomas Jefferson, in its simplest form, supports the goal of producing lawyers educated not only in the law, but in the contextual foundation for law, and trained in the arts and skills necessary to undertake improvement and reform of law and government as necessary for the public good. Lawyer citizens must be both excellent lawyers and dedicated citizens and experiential legislative courses help develop law students into both.



**QUESTIONS?**