

# ADVICE FOR A GRADUATING LAW STUDENT

EIGHT TIPS FOR SUCCESS RIGHT OUT OF LAW SCHOOL...  
AND BEYOND

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So, you really (finally!) have to start thinking about *post* law school. Here's some advice from an old-timer. From my own experience and almost 50 years of observation, it's counsel that has met the test of time. With apologies for the necessarily autobiographical slant on these tips, they follow:

1. *Get a clerkship if you can.* There are *many* available, but you probably have to apply to a lot of judges to get one -- state or federal, trial or appellate -- it makes little difference which. At least, as in my day before computers, you don't have to type the same letter over and over again. Low and behold, I applied to one federal trial judge in Washington (among many) who was a "C-man" from Harvard Law School just as I was, and he hired me on the spot. (There's a huge misconception that you have to be in the top ten percent of your class.) Yes, I had to choose a geographical area, and then I had to travel there for interviews. But what a great year's experience!

It matters not a whit whether the judge is of your same "philosophy" (if you have one yet), or if you have the slightest idea what his or her ideology is. It's the *exposure* that counts -- to courts and their processes. They affect and inform so much of what law practice -- no matter what the area of law -- is all about.

It's like a graduate school in the law; your marketability is greatly increased; you make friends for life in the courthouse.

Your clerkship will also give you time to pick and choose (and try and fail and try again) in applying Tip No. 2:

2. *Consider government employment first.* You'll get vital legal experience quickly and serious responsibility sooner. Rather than merely toting the senior partner's law books into the courtroom (and even they don't get there that often), or doing nothing but depositions and discovery for five years, for example, you'll be trying cases yourself. I knew several classmates who went to work, starry-eyed, for big city law firms and ended up

leaving *for* government experience by the time I was *departing* government.

In my own case, having decided I wanted to work in Washington, D.C., I never would have *heard* of the District of Columbia Corporation Counsel's Office (now the Attorney General's Office) but for my clerkship. Not having succeeded in landing a job with the U.S. Attorney's Office, that's where I went. Again, terrific experience. Government doesn't have time or resources to train you very much; so you often sink or swim on your own. What better way to do it than on the government's dime rather than your own. And don't overlook the criminal law, because you do get to court regularly and the skills you develop are fully transferable. Now for some of the "beyond" stuff....

3. *Give it a fair try.* After trying cases at the very pinnacle of the law -- traffic court (did I ever learn to think on my feet!) -- for six months, I was tapped for the Taxation Division of the Corporation Counsel's Office. I was horrified. I didn't care about tax law at all -- let alone *District of Columbia* taxation. But I eventually agreed to give it a fair try. It turned out to be the only division in the office that did all its own trial work, appellate work, and legislation and opinion writing. Sure, I used CCH a little more, but the more you practice law, the more it's the same. I filed motions and briefs, subpoenaed witnesses, cross-examined, and argued to the judge or judges just as in any other area of practice. It, too, was great experience.

4. *Don't be afraid of the big guys.* Two years out of law school I came up against a bar examiner and president of the local bar association in a tax case. I thought maybe he was saving his best arguments for appeal when I read his trial court brief. He wasn't. I don't care who you're up against -- if you've got the facts and law on your side, you don't need to be afraid of anybody. Just do your best. See *Washington American League Base Ball Club, Inc. v. District of Columbia*, 349 F.2d 179 (D.C. Cir. 1965). This case also highlights the responsibility factor of Tip No. 2 above, even though my boss wouldn't let me argue it orally before the Circuit Court (yes, that's a downside with government work -- you do have bosses on up the line).

5. *Ask fundamental questions.* In 1965-66 a national debate was raging as Senator Everett Dirksen (R. Ill.) pushed a constitutional amendment to overturn "one man, one vote" in the wake of *Baker v. Carr*, 369 U.S. 186 (1962), and *Reynolds v. Simms*, 377 U.S. 568 (1964), and allow at least one house of a state legislature to be malapportioned. In reading the Constitution one day (of all things!) I asked myself, how could a malapportioned state legislature lawfully ratify a proposed constitutional amendment justifying its own malapportionment? I wrote an article conclud-

ing, by a mere axiom of constitutional government, that it couldn't. The article was published by the *American Bar Association Journal*, quoted on the floor of Congress, reprinted in the *Congressional Record*, and helped defeat the proposed amendment. I think we're all the better for it. See *An Antireapportionment Amendment: Can It Be Legally Ratified?*, 52 A.B.A.J. 326 (Apr. 1966), 112 Congr. Rec. 8383-87 (Apr. 19, 1966) (Post No. 10 on this website).

I cite this experience not to toot my own horn, but to point out that fundamental questions *need* to be asked -- be it in the area of nationally debated constitutional government, or in the litigation you're pursuing at the moment. And you're just as capable, with your law school training, to answer (or at least try to answer) the questions as anybody. And see Tip No. 4 above (Hey, this is all tying together!).

6. *Volunteer.* Dean Erwin J. Griswold was right with this advice at my first year law school convocation in 1959. It can take the form of representing indigents in court or other *pro bono* work, or work in the organized bar. It will take you a long way -- in experience and satisfaction.

I became involved with the local bar association as soon as I came to Washington. In 1967-68 I volunteered to chair a task force to seek local court authorization for law students to represent indigents in court. After a two-year battle in the courts and the press, we won. That led to my becoming Chairman of the Young Lawyers Section of the city, to a seat on the Board of Governors of the new Unified Bar, and, I have no doubt, eventually to my judgeship.

There's another benefit, as well. Other lawyers, judges, get to know you and your abilities. When I opened my own law practice in 1970, many referrals came from these sources.

7. *Consider solo general practice.* Eventually. Or at least a small firm doing "people's law." There's a lot to be said for caring for and helping little people. The experience is incredible and as varied as you want it to be. See, e.g., Forester, <https://www.authorhouse.com/en/bookstore/bookdetails/222099-A-Different-Cadence> (\$9.95).

You have exposure to and learn to appreciate ethical problems much more than in government practice. You learn (often through sad experience) and use some wonderful phrases:

It hurts to charge my friends, but my enemies don't come to see me.

It was Abraham Lincoln who said, "A lawyer's stock in trade is his time."

If I were a client, a contingent fee contract is the kind of incentive I'd like to have working for me.

I don't mind saying to you I don't take a contingent fee case unless it's a sure winner. Reason: I'm a lawyer, not a gambler.

I'll not take your case on a contingent fee basis, but on an hourly basis I will draw up a complaint for you to sign and file *pro se*.

As can be seen, you learn when to say no. You learn how to collect a bill. You do a lot of *pro bono* work when you work anyway for someone you know can't pay his or her bill. But you have real independence.

And you come to understand and feel humility in the phrase, "There, but for the grace of God, go I."

8. *Revere common sense*. It's your best guide -- in government, private practice, on the bench. As Dickens wrote, the law is "a ass, a idiot" if it isn't guided by it. Cultivate common sense in all the above, if you choose to follow even some of it.

Good luck!