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J.P. "Sandy" Ogilvy

The Catholic University of America, Columbus School of Law

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INTRODUCTION TO THE SYMPOSIUM ON DEVELOPMENTS IN LEGAL EXTERNSHIP PEDAGOGY

J. P. OGILVY*

On March 5-8, 1998, in celebration of the centenary of The Catholic University of America's Columbus School of Law, the law school sponsored a conference on legal education devoted entirely to legal externships.¹ The conference, entitled "Developments in Legal Externship Pedagogy," brought together over 170 participants, including more than 40 speakers, who represented over 100 different law schools.² Some of the papers presented at the conference appear in this issue of the *Clinical Law Review*; others will appear in the next issue;³ and still others have been or will be published in other journals.⁴

In recent years there has been a significant increase in interest in legal externships as an element of the law school curriculum. The increase in the numbers and types of externship programs has attracted the attention of the accreditation committee of the ABA Council on Legal Education and Admissions to the Bar⁵ but, with a few signifi-

* Associate Professor of Law and Coordinator of Clinical Programs, Columbus School of Law, The Catholic University of America and owner of the LEXTERN listserv for law teachers, administrators, and staff involved in externship programs. On behalf of the entire Planning Committee for Developments in Legal Externship Pedagogy — Professors Kathryn Kelly, Catherine Klein, Lisa Lerman, Leah Wortham, Assistant Dean Georgia Niedzielko, and Marian Lally, Centennial Coordinator — I want to thank Dean Bernard Dobranski and the staff, students, and faculty of Columbus School of Law for helping to make the conference become a reality. I also want to extend our sincerest thanks to the editors of the *Clinical Law Review* for making space available for the papers and working to bring this volume into print.

¹ Audiotapes of most of the sessions are available from Columbus School of Law, The Catholic University of America. If you would like a copy, contact Professor J. P. "Sandy" Ogilvy at the law school.

² For an illustration of the breadth and depth of externship programs, see Robert F. Seibel & Linda H. Morton, *Field Placement Programs: Practices, Problems and Possibilities*, 2 CLIN. L. REV. 413 (1996). Professor Seibel of CUNY School of Law at Queens College opened the conference with data on the number and types of externship programs currently offered in law schools across the country.

³ E.g., Brook K. Baker, *Learning to Fish, Fishing to Learn: Learning Through Guided Participation in the Interpersonal Ecology of Practice*, 6 CLIN. L. REV. (forthcoming 1999).

⁴ E.g., Larry Krieger, *What We're Not Telling Law Students — and Lawyers — that They Really Need to Know: Some Thoughts-in-Action Toward Revitalizing the Profession from its Roots*, 13 J.L. & HEALTH (forthcoming 1999).

⁵ AMERICAN BAR ASSOCIATION, SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR, STANDARDS FOR APPROVAL OF LAW SCHOOLS, Standard 305 and Interpretations

cant exceptions, only limited scholarly and other public attention by legal educators.⁶ The conference was conceived as a step toward bringing together law teachers engaged in designing, managing, and evaluating externships to share current knowledge, to build on that knowledge and, ultimately, to create better models for legal externship programs.

The presentations at the conference addressed a broad spectrum of current issues for teachers of externships. Several presentations focused on clinic design, describing the speakers' development of and experiences with innovative structures and approaches. Four of the

305-1 & 305-2 <<http://www.abanet.org/legaled/chapter3.html>> at 4-6 (visited Feb. 2, 1999). For a critique of the ABA Standards and Interpretations for externships, see William Wesley Patton, *Externship Site Inspections: Fitting Well-Rounded Programs into the Four Corners of the ABA Guidelines*, 3 CLIN. L. REV. 471 (1997).

⁶ This is a non-exhaustive, but fairly representative, list of scholarship devoted to legal externships: REBECCA A. COCHRAN, *JUDICIAL EXTERNSHIPS: THE CLINIC INSIDE THE COURTHOUSE* (2d ed. 1999); J.P. OGILVY, LEAH WORTHAM & LISA G. LERMAN, *LEARNING FROM PRACTICE: A PROFESSIONAL DEVELOPMENT TEXT FOR LEGAL EXTERNS* (1998); Stephen R. Alton, *Mandatory Prelicensure Legal Internship: A Renewed Plea for Its Implementation in Light of the MacCrate Report*, 2 TEX. WESLEYAN L. REV. 115 (1995); Kate E. Bloch, *Subjunctive Lawyering and Other Clinical Extern Paradigms*, 3 CLIN. L. REV. 259 (1997); Stacy Caplow, *From Courtroom to Classroom: Creating an Academic Component to Enhance the Skills and Values Learned in a Student Judicial Clerkship Clinic*, 75 NEB. L. REV. 872 (1996); Joanne Carter, *Mixed Emotions: A Law Student's Perceptions While Working at a Public Defender's Office*, 2 T.M. COOLEY J. PRAC. & CLIN. L. 329 (1998); Liz Ryan Cole, *Lessons from a Semester in Practice*, 1 CLIN. L. REV. 173 (1994); Liz Ryan Cole, *Training the Mentor: Improving the Ability of Legal Experts to Teach Students and New Lawyers*, 19 N.M. L. REV. 163 (1989); Robert Condlin, "Tastes Great, Less Filling": *The Law School Clinic and Political Critique*, 35 J. LEGAL EDUC. 45 (1986); Greg Dantzman, *My Externship Experience at the Public Defender's Office in Ann Arbor*, 2 T.M. COOLEY J. PRAC. & CLIN. L. 337 (1998); Daniel J. Givelber, Brook K. Baker, John McDevitt & Robin Miliano, *Learning Through Work: An Empirical Study of Legal Internship*, 45 J. LEGAL EDUC. 1 (1995); Kenny Hegland, *Condlin's Critique of Conventional Clinics: The Case of the Missing Case*, 36 J. LEGAL EDUC. 427 (1986); Harriet N. Katz, *Personal Journals in Law School Externship Programs: Improving Pedagogy*, 1 T.M. COOLEY J. PRAC. & CLIN. L. 7 (1997); Minna J. Kotkin, *Reconsidering Role Assumption in Clinical Education*, 19 N.M. L. REV. 185 (1989); Meryl Markowitz, *My Experience at the Eaton County Prosecution Office*, 2 T.M. COOLEY J. PRAC. & CLIN. L. 343 (1998); James E. Moliterno, *On the Future of Integration Between Skills and Ethics Teaching: Clinical Legal Education in the Year 2010*, 46 J. LEGAL EDUC. 1 (1996); Janet Motley, *Self-Directed Learning and the Out-of-House Placement*, 19 N.M. L. REV. 211 (1989); Patton, *supra* note 5; Henry Rose, *Legal Externships: Can They Be Valuable Clinical Experiences for Law Students?*, 12 NOVA L. REV. 95 (1987); Seibel & Morton, *supra* note 2; Linda F. Smith, *The Judicial Clinic: Theory and Method in a Live Laboratory of Law*, 1993 UTAH L. REV. 429; Mark Spiegel, *Theory and Practice in Legal Education: An Essay on Clinical Education*, 34 UCLA L. REV. 577 (1987); Marc Stickgold, *Exploring the Invisible Curriculum: Clinical Field Work in American Law Schools*, 19 N.M. L. REV. 287 (1989); Nina W. Tarr, *Current Issues in Clinical Legal Education*, 37 HOW. L. J. 31 (1993). The best general reference source for clinical scholarship is the annotated bibliography created by Professor Karen Czapanik of the University of Maryland Law School: <<http://www.law.umab.edu/clinic/clinedu/CLININFO.HTM>>.

papers in this issue grow out of these presentations.⁷ In *Designing and*

⁷ In addition to the speakers whose papers appear in this issue, there were presentations on programmatic design by several others. Dean Mark Sargent of Villanova University School of Law described the Law & Entrepreneurship Program and Securities Regulation Workshop he created while at the University of Maryland School of Law. These programs are examples of how externships can be used to establish "educational partnerships" between faculty and practitioners.

Raven Lidman of Seattle University Law School explained her school's innovative pairing of simulation laboratories and one-credit live-client lawyering opportunities with traditional courses. For a description of this approach, see John B. Mitchell, Betsy R. Hollingsworth, Patricia Hall Clark & Raven Lidman, *And Then Suddenly Seattle University Was On Its Way to a Parallel, Integrative Curriculum*, 2 CLIN. L. REV. 1 (1995). Professor Lidman discussed two models for using externships as learning opportunities for students enrolled in upper-level environmental and land use courses.

Jamin Raskin of The American University's Washington College of Law explained his concept of "the externship as context" by describing how he uses the externship experience in his Local Government Law class to provide a social context for the historical, legal, and philosophical issues explored in the seminar. The seminar is designed to transform students from mere observers into active participants in shaping and resolving the legal and political questions of the day.

Mary Wolf of Indiana University School of Law-Indianapolis described clinical placements for students interested in health law and not-for-profit corporations. She focused on the formal agreements she crafted with placement organizations to ensure adequate on-site supervision of students, satisfy the organizations' needs and obligations, and facilitate the law school's curriculum review process.

Jane Aiken and Karen Tokarz of Washington University School of Law spoke frankly about the strengths and weaknesses of a "hybrid model" in which an off-campus clinical program is run cooperatively with a local host agency. Under the hybrid model employed at Washington University, the faculty member responsible for the clinic may choose to have direct case responsibility and supervision of students, or share these functions with a cooperating attorney, or delegate primary supervision to cooperating attorneys.

Three clinicians who teach in Los Angeles, California area law schools — Barbara Blanco of Loyola Law School, Cheryl McDonald of Pepperdine University School of Law, and Bill Patton of Whittier Law School — described the Greater Los Angeles Consortium of Externships (GLACE), a consortium of six L.A. law schools that joined together to develop joint standards for supervision of externships; compile a joint placement database; monitor placements and externship supervisors; and share new administrative and economic burdens placed on externship programs by ABA Accreditation Standards. For a description of GLACE and a discussion of the relevant ABA Standards, see Patton, *supra* note 5. The conference session on GLACE highlighted some of the difficulties of initiating and operating such a consortium, the ways in which the joint approach has actually empowered individual externship directors, and the benefits of creative problem solving for the quality of individual externship programs and students' externship experiences.

The subject of program design also was a focus of a pre-conference session on administration and regulation, organized by Dean Shelley Broderick of the University of the District of Columbia's David A. Clarke School of Law, Susan Carle of The American University's Washington College of Law, Erica M. Eisinger of Wayne State University Law School, Arlene Kanter of Syracuse University College of Law, Larry Krieger of Florida State University College of Law, and Leah Wortham of The Catholic University of America's Columbus School of Law. This session focused on the basics of program design and implementation. Participants learned about choices of pedagogical goals for externship programs; the selection and match of students, placements, and supervisors; allocation of responsibility for student supervision; program staffing and teaching credit for faculty; and allocations of academic credit. The session also focused on preparing for an accreditation visit, the ABA and AALS accreditation standards, and what to expect during and after

Teaching the Large Externship Clinic, Mary Jo Eyster describes her experiences in designing and teaching an externship clinic after seven years of teaching an in-house litigation clinic. Although the article is addressed to an audience of newer externship teachers and directors, it is a wonderful primer for all externship faculty who are called upon to create or to redesign an externship program.

In *Designing an Extern Clinical Program: or As You Sow, So Shall You Reap*, Linda Smith describes the process of designing a field placement clinical program in which “the students’ desires, the placement agencies’ needs and work, and the law school’s evolving curriculum . . . [are] coordinated and adjusted with one another.” As she reminds us, no single design is best for all law schools “because of their different missions as well as the different legal communities with which they work.”

In *Experience as Text: The History of Externship Pedagogy at the Washington College of Law, American University*, a group of faculty members — Peter Jaszi, Ann Shalleck, Marlana Valdez, and Susan Carle — describe the development and evolution of their school’s externship program over the course of twenty years. This article describes the institutional history that led to the development of the program’s current design, details the present organizational structure and the issues with which the faculty are grappling, and concludes with some reflections on the future development of the program. While demonstrating how institutional history influences program design, the article also graphically illustrates the programmatic re-envisioning and reshaping processes that can and should take place over time.

In *Not Quite Grown Up: The Difficulty of Applying An Adult Education Model to Legal Externs*, Linda Morton, Janet Weinstein, and Mark Weinstein describe how their search within adult learning theory for a unifying paradigm for externship teaching led them to reexamine Malcolm Knowles’ theory of “andragogy”⁸ and to formulate a new blend of andragogical and pedagogical theories and methods. This piece lays bare fundamental underlying assumptions about the respective roles of students and faculty in externship programs. The authors also raise important questions concerning the appropriate mix of teaching methods when a program’s overarching goals are to help students gain a humanistic perspective on law and become more self-directed, self-reflective, and responsible practitioners.

Several of the speakers at the conference focused on the process of aiding students to reflect on their externship experiences, and this

an accreditation visit.

⁸ See MALCOLM S. KNOWLES, *THE MODERN PRACTICE OF ADULT EDUCATION* (1980).

topic also is well-represented in this issue.⁹ In *Using Faculty Tutorials to Foster Externship Students' Critical Reflection*, Harriet Katz focuses a critical eye on the use of faculty who are not trained in clinical teaching methodology to guide students in critical reflection of externship experiences. Professor Katz begins by identifying the aspects of critical thinking in which externship students engage and considering which of these usefully may be addressed by faculty teaching in a tutorial model. After describing the principal models of faculty tutorial, which she labels *consultative* and *integrative*, she suggests some facilitators and inhibitors to success. Professor Katz concludes with an inventory of issues that should be addressed when considering the use of nonclinical faculty to expand teaching resources for externships.¹⁰

In *Writing, Reflecting and Professionalism*, Michael Meltsner presents an approach to stimulating reflective writing that, although created for an experimental course on the legal profession, is adaptable to externships. This article describes Professor Meltsner's use of structured writing assignments in his "Perspectives on Lawyering" course in which students are given the "opportunity to explore how to get and retain satisfaction practicing law." He concludes that the approach drives students — and faculty — "to considerable reflection about who they are, what they believe and how this might play out in what they do or expect to do as lawyers." As can be seen in the articles in this issue that focus on course design, such outcomes are frequently explicit goals of an externship.¹¹

Of course, the articles in this issue do not represent all of the many fascinating issues explored at the conference. The conference also addressed methods to ensure quality supervision in the field;¹² the

⁹ In addition to the speakers whose articles appear in this issue, Professors Arlene Kanter of Syracuse University College of Law, Speedy Rice of Gonzaga University School of Law, and Alexander Scherr of the University of Georgia School of Law discussed various approaches for using the externship seminar to foster critical reflection.

¹⁰ In addition to Professor Katz, Professors Peter Jaszi of The American University's Washington College of Law and Ann Miller of Thomas M. Cooley Law School also discussed models for expanding externship teaching resources by drawing on nonclinical faculty. Professors Keri Gould of St. John's University School of Law and Linda Smith of the University of Utah College of Law focused on other aspects of the relationship between externships and the rest of the law school curriculum, examining (among other things) the tensions that may arise when in-house and externship clinical programs vie for a limited set of school resources.

¹¹ As part of the same session in which Professor Meltsner presented his approach, I focused on another form of student writing in externships: student journals. For a discussion of this subject, see J.P. Ogilvy, *The Use of Journals in Legal Education: A Tool for Reflection*, 3 CLIN. L. REV. 55 (1996).

¹² Liz Ryan Cole and Belinda Sifford of Vermont Law School and Jim Backman of Brigham Young University's J. Reuben Clark Law School discussed the selection, training, and oversight of field supervisors, a topic of perennial concern for externship programs. Bob Bloom of Boston College Law School and Mary Helen McNeal of the University of

intersection of ethics and externship pedagogy;¹³ use of externships to focus on issues of diversity and bias in the legal profession;¹⁴ collaboration in the externship setting;¹⁵ the use of student presentations and projects in externship courses;¹⁶ opportunities to examine power relationships and other “workplace issues”;¹⁷ students’ use of externships

Montana School of Law approached the topic of ensuring good supervision from the other direction, presenting ways to educate students to *elicit* good supervision. Sue Schechter of Golden Gate University School of Law and Cindy Slane of Quinnipiac College School of Law focused on site visit practices and presented two different models for making good use of site visits.

¹³ Stacy Caplow of Brooklyn Law School and Kathleen Clark of Washington University School of Law explored the topics of conflicts and confidences. In most externship programs, they noted, the faculty supervisor has no clearly defined role vis-a-vis the cases, clients, or decisions made by the fieldwork supervisor, but the students often want (and often are encouraged) to confide information and ask for judgments and opinions from their faculty supervisors in fieldwork critique sessions. Professors Caplow and Clark led a lively discussion of the challenges of accommodating the confidentiality requirements of the placements while still meaningfully engaging students in a critical examination of the legal institutions in which they are participant-observers.

Lisa Lerman of The Catholic University of America’s Columbus School of Law and Vanessa Merton of Pace University School of Law focused on supervisor misconduct. They noted that externship students often observe conduct by lawyers with whom they work that raises ethical questions. These observations are a rich source for reflective discussion and writing by students. Part of the session addressed techniques for stimulating student awareness of professional dilemmas in their placements and then utilizing students’ observations in a seminar. Another part of the session explored the problems created for the student, faculty supervisor, and institution when students become aware of professional misconduct serious enough to warrant a report to disciplinary authorities.

The sessions on ethics, each of which drew particularly heavy turnout and elicited extensive commentary, generated enough light and heat to be the focus of much scholarly attention for some time.

¹⁴ Margaret Martin Barry and Stacy Brustin of The Catholic University of America’s Columbus School of Law and Margaret Woo of Northeastern School of Law examined methods for raising issues relating to diversity and bias in externships. Steven Hartwell of the University of San Diego School of Law offered a participatory workshop to introduce instruments, including the Bem Sex Role Inventory, the Gender Journey, and parts of the Myers-Briggs Type Indicator (MBTI), that may help in sensitizing externship students to gender issues in the workplace. For discussion of these instruments, see, e.g., S.L. BEM, *ROLE INVENTORY PROFESSIONAL MANUAL* (1981); ISABEL B. MYERS, *MANUAL: THE MYERS-BRIGGS TYPE INDICATOR* (1962); S.L. Bem, *The Measurement of Psychological Androgyny*, 42 *J. CONSULTING & CLIN. PSYCH.* 155 (1974).

¹⁵ Gwendolyn Griffith of Willamette University College of Law examined the role of collaboration theory in externship programs, identifying the types of problems students typically encounter in collaborating in an externship setting and the responses suggested by collaboration theory.

¹⁶ Keri Gould of St. John’s University School of Law and Bob Seibel of CUNY School of Law at Queens College provided participants with rationales for using student presentations and projects, explained what students and faculty learn from them, and proposed methods to encourage students to develop their creativity and independent learning.

¹⁷ Dean Rex Perschbacher and Jill Peterson of the University of California at Davis School of Law explored a variety of “workplace issues” in externships. Their thesis was that issues such as interpersonal relationships, economic issues (limited resources, prioritization, etc.), power issues, the moral culture of the workplace, and practice management

for career planning¹⁸ and to gain a better understanding of ways to attain personal and professional satisfaction in practice;¹⁹ and the exploration of spiritual issues in the clinical context.²⁰

During the closing session of the conference, the participants concluded that there should be more local, regional, and national meetings, workshops, and conferences devoted to issues of externship pedagogy and more scholarship on the subject. The participants also suggested that future conferences and scholarship should, to the greatest extent possible, draw on the insights of professionals in other disciplines and the cooperation of others in the universities of which the law schools are a part. The creation of the LEXTERN Internet discussion listserv is one response to the desire for more focused discussion of issues relating to legal externs.²¹ This symposium issue is a first step toward meeting another of the goals, the encouragement of more scholarship.

The symposium articles that appear in this issue and the upcoming issue of the *Review* contribute to the important and growing body

present largely untapped teaching opportunities. They sought to leave conference participants with an enhanced appreciation of the value of explicit discussion of these issues and a better understanding of the tools that may be used to help students develop an ethically sensitive image of practice.

¹⁸ Georgia Niedzielko of The Catholic University of America's Columbus School of Law and Sue Schechter of Golden Gate University School of Law focused on the relationship between externships and career planning. This session provided an opportunity for conference participants to define the issues and to identify tools to facilitate the dialogue between externship coordinators and career service professionals.

¹⁹ Larry Krieger of Florida State University College of Law, Linda Smith of the University of Utah School of Law, and Leah Wortham of The Catholic University of America's Columbus School of Law each contributed insightful perspectives on the subject of helping students explore means to attain personal and professional satisfaction. Professor Krieger demonstrated a pedagogical approach based on Abraham Maslow's hierarchy of human needs (*see* ABRAHAM H. MASLOW, *MOTIVATION AND PERSONALITY* (3d rev. ed. 1987); ABRAHAM H. MASLOW, *TOWARD A PSYCHOLOGY OF BEING* (2d ed. 1982)) that can help refine student attitudes and create a more stable foundation for personal and career satisfaction. Professor Smith shared an approach to helping students become more self-aware of significant individual differences, such as their needs for order, association, power, and accomplishment; their negotiation tendencies (competitive/cooperative); and their communication styles (direct/indirect). She suggested that students' personal satisfaction can be enhanced by self-awareness. Professor Wortham commented on survey data on sources of lawyer dissatisfaction and balance in their personal and professional lives and suggested ways of using such data in externships to guide student career choices.

²⁰ Cheryl L. Conner of Suffolk University Law School and Lucia Silecchia of The Catholic University of America's Columbus School of Law examined the ways in which spiritual issues can be raised in the clinical context. They began by focusing on how "spirituality" may be defined, the many meanings it may have, and the necessity of having a good working vocabulary before proceeding to a substantive discussion. They next turned to the ways in which spirituality may be woven into legal practice and the ways in which it may be addressed in clinical legal education.

²¹ To subscribe to LEXTERN, send the message SUBSCRIBE LEXTERN to the e-mail address <Listserv@lists.cua.edu>.

of scholarship on teaching. As Lee Schulman²² has said, teaching involves five distinct elements: vision, design, interaction, outcomes, and analysis. First the teacher envisions a possible educational program or activity. This vision leads to the design of an instructional program or activity. Once designed, the program or activity is offered to students who interact with it, generating specific outcomes including acts and products of student learning that are reflected in changes in students' skills, understanding, values, propensities, or sensibilities. The whole enterprise is then subjected to an analysis in which the teacher proposes a set of interpretations of the significance of the program or activity related to the vision that initiated it. The scholarship of teaching may examine one or more of these elements and, by making them public, expose them to critical review by professional peers and facilitate their replication by other members of the community. They become, in essence, community property that all members of the community can enjoy and improve.

Each of the articles in this issue exposes readers to the visions that shaped externship programs and the means by which those visions were realized. These articles allow readers to work with the authors in analyzing the various visions and designs. Professor Meltsner's piece also shares some outcome measures with the reader in the form of student comments to the course and specific assignments.

Each of the articles demonstrates the centrality of critical reflection as a principal component of experiential education. Each article explicitly refers to the facilitation of students' critical reflection on experience as a core goal of externship programs. Indeed, reflection is the element that transforms simple experience into a learning experience.²³ To the extent that we externship teachers add value to the students' experience, it is through the activities and strategies that we build into the program or course to support the reflective process. As we design experiential learning programs, courses, and activities, and as we assess and evaluate them, we need to keep in mind that this reflective process is integral to all phases of experiential learning, from identifying goals, objectives, and activities, to monitoring and adjusting the experience, to analysis of the experience at its conclusion.

²² See Lee S. Shulman, *Course Anatomy: The Dissection and Analysis of Knowledge Through Teaching*, in *THE COURSE PORTFOLIO: HOW FACULTY CAN EXAMINE THEIR TEACHING TO ADVANCE PRACTICE AND IMPROVE STUDENT LEARNING* 5, 6-7 (Pat Hutchings ed., 1998). Lee Shulman is the President of The Carnegie Foundation for the Advancement of Teaching and a former President of Stanford University.

²³ See NATIONAL SOCIETY FOR EXPERIENTIAL EDUCATION, NSEE FOUNDATIONS DOCUMENT COMMITTEE, *FOUNDATIONS OF EXPERIENTIAL EDUCATION*, DECEMBER 1997 <<http://www.nsee.org.found.htm>> (visited Feb. 12, 1999).

We need to ask whether there are activities or strategies built into the experience to support the reflection process; how the process of reflection informs the ongoing experience (and facilitates modification, if necessary) and selection or design of future experiences; whether we have provided opportunities for a variety of structured and unstructured reflection strategies; and how each student's individual reflections can be shared with others, especially fieldwork supervisors, to enhance learning and effectiveness.²⁴

This collection of articles is a welcome addition to the scholarship of teaching of legal externships. I hope that it not only assists externship teachers in improving their individual programs but also inspires them to write about their investigations of one or more of the elements of teaching: vision, design, enactment, outcomes, and analysis. In this manner, the clinical community can work together to refine the pedagogy of legal externships.

²⁴ *Id.* at 5.

