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Lessons from Petticoat Lane

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Essay

Steven Lubet*

Lessons from Petticoat Lane

TABLE OF CONTENTS

I. Experiential Learning.....	916
II. Clinical Education	918
III. A Story from Petticoat Lane.....	920
IV. Lessons for Lawyer-Negotiators	925
V. Conclusion.....	927

I. EXPERIENTIAL LEARNING

One of the great modern clichés is the image of the self-taught genius. Consider the virtuoso blues guitarist or country fiddler who has never had a lesson, the high school drop-out who invents a revolutionary computer, or the wimpy kid who goes off into the wilderness and emerges an undefeatable master of the martial arts. Through motivation, dedication, and single-mindedness, these folkloric icons manage to hone their skills and achieve perfection.

Practice makes perfect. It is a great legend, but it cannot be true. No musician, hacker, or ninja ever achieved perfection, or even proficiency, merely through repetition. In every case, skill comes only by building on a foundation of others' knowledge, insight, and experience.

The true axiom ought to be that "Practice makes permanent." Whatever you practice is what you will do, whether it is in key or out of tune.¹ To progress from permanence to competence, one requires training, reflection, observation, and, only then, practice.

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1. A literary example is found in Amy Tan's novel *The Joy Luck Club*. Seeking to make her child a prodigy, a mother arranges piano lessons—but unbeknownst to both mother and daughter, the teacher is nearly deaf. Not familiar with western music, the child practices assiduously until the day of her recital finally arrives. The performance, of course, is a disaster. She plays every piece with perfect technique, but completely out of tune. AMY TAN, *THE JOY LUCK CLUB*, 136-40 (1989).

This applies to the legal profession as well as to the arts and sciences. Lawyers learn through practice, but care must be taken to ensure that the lessons they learn are the correct ones. Bad habits are as easy to reinforce as good ones. In an unstructured and untutored world, practices are repeated when they are successful and abandoned when they are not. Thus, lawyers will tend to continue using techniques that they perceive as having worked, while they will stop doing things that seem to have failed.

To a certain extent, the trial and error method is inevitable. But this method has three distinct limitations as a tool for professional growth. First, trial and error is time consuming and cumbersome. It obviously makes great good sense to be shown the right way to do something, rather than to blunder about until one discovers it for oneself. All of law school is based on the premise that purposeful instruction is preferable to experimentation. In particular, clinical education posits that mentoring can save initiates from the pitfalls of false leads and blind alleys.² As they say in medical school, "See one, do one, teach one."

Second, the process of trial and error (especially where lawyers are concerned) makes it nearly impossible to isolate the variables of successful practice.³ For example, assume that a lawyer made twelve equally crucial decisions in the course of a trial which she ultimately won. Which of the twelve should be repeated next time? Did every decision contribute equally to her success, or were some of them actually errors that she was able to overcome? Perhaps she only made seven correct decisions, but that was sufficient to surmount the five poor ones. In other words, trial and error tells you only that you succeeded. It does not tell you exactly why. Given the multitude of individual choices, decisions, and tasks that comprise the practice of law, it is almost inconceivable to think that a lawyer could know precisely which tactics worked and which were futile. Indeed, in the absence of feedback it is entirely possible that a lawyer might attribute victory to a decision that was actually a blunder. We all know lawyers who have won cases in spite of themselves.

Which brings us to the third reason that unmediated trial and error can never be a prescription for successful law practice. Evolution rewards survival, not optimality. The development of a lawyer's professional competence may be seen as a sort of evolution. The lawyer engages in a variety of practices, techniques, and tactics as her practice develops. Some of these will be retained and repeated, some will

2. William R. Trail and William D. Underwood, *The Decline of Professional Legal Training and a Proposal for Revitalization in Professional Law Schools*, 48 BAYLOR L. REV. 201 (1996).

3. Michael J. Saks, *Turning Practice into Progress: Better Lawyering Through Experimentation*, 66 NOTRE DAME L. REV. 801 (1991).

be adapted or refined, and some will be discarded. The objective of the practitioner, then, should be to preserve the best techniques and eliminate the worst. The study of evolution, however, teaches us that adaptive traits tend to persist so long as they do not preclude survival.⁴ In other words, all manner of awkward, nonproductive, or sub-optimal practices are likely to remain in any lawyer's repertoire simply because they are not so counterproductive as to lead to catastrophe.

The goal of law practice, however, is to be as good as possible, not merely to survive. Unfortunately, the ordinary process of evolution cannot lead to optimum results, but only to the avoidance of disaster. To use a mundane example, consider the messy desk. We all know lawyers whose desks and offices look as though a tornado has just rampaged through the building.⁵ We also know, and so do our disorderly colleagues, that a neat desk and organized filing system make law practice easier, more efficient, and probably more successful. So why do they avoid straightening out their desks? Why does the process of trial and error fail to improve on what is, after all, a pretty easy problem to solve? The answer is that messy desks do not manifestly lead to lost cases, so lawyers can endure chronic disorganization. Thus, the ill-conceived conduct is never reformed. Left to itself, evolution (read trial and error) does not lead to optimal results, but only to survival.

II. CLINICAL EDUCATION

What does this tell us about clinical legal education? Most obviously, the insight that "practice makes permanent" discredits the oft-repeated argument that lawyering skills can be "picked up in practice." Left to her own devices, the neophyte lawyer (or even the experienced one) will, at best, have to wade through a series of misguided choices and poor decisions before arriving at a reliable approach to legal practice. Even then, many results are likely to be mediocre because, as we have seen, evolution does not tend toward optimization.

There is, however, the possibility that the new lawyer will not be entirely on her own. She might have the benefit of mentoring, or even a law-firm training program.⁶ True enough. But both mentoring and in-house training operate against the backdrop of increasingly competitive legal practice. Economic reality, particularly in large firms,

4. Stephen Jay Gould, *Shades of Lamarck*, in *THE PANDA'S THUMB* 20 (1980).

5. Candor compels me to admit that I often fall into this category.

6. Lucy Isaki, *From Sink or Swim to the Apprenticeship: Choices for Lawyer Training*, 69 *WASH. L. REV.* 587 (1994).

tends to compel increased productivity to the exclusion of training.⁷ Partners are under pressure to bill⁸ and consequently can devote time to the education of associates only at the expense of their own billable hours. While there can be no doubt that training happens at law firms, it is as likely to be incidental training as it is to be purposeful.

Nor can we disregard the fact that many of the partners themselves will have learned their trade primarily through trial and error. In other words, they will have had the same difficulty isolating the variables discussed above. Consequently, they will be capable of teaching the broad strokes of what has worked, but one cannot assume that they will be equally capable of breaking their successes into smaller components and applying the discrete lessons to different situations.⁹

In my experience, practitioners teach by saying "Here is what has worked for me." Academics teach by saying "Here is how to think about the problem." The challenge and unique opportunity for law school clinicians is to use the modalities of practice to teach students how to "think about the problem."¹⁰

We can think about problems as we encounter them in the course of clinical instruction. We can also think about them through the use of stories, observations, and narratives. A story drawn from a case, from politics, or even from everyday life can provide the clinical teacher with a template for understanding the interaction among human beings. A story can be used to illuminate the consequences of a particular form or philosophy of law practice¹¹ or to suggest modalities for enhanced methods of representation.¹² A more modest use of narrative is as a device for generalizing about certain skills inherent in the practice of law. Specifically, all lawyers negotiate, some better

7. Marc S. Galanter & Thomas M. Paley, *Why the Big Get Bigger: The Promotion-to-Partner Tournament and the Growth of Large Law Firms*, 76 VA. L. REV. 747 (1990).

8. *Id.* at 774.

9. There is an additional problem inherent in "picking it up in practice." Law firms increasingly attend to their own internal efficiency rather than to external standards of proficiency. For example, associates are judged by the number of billable hours they create. Thus, from a law firm's perspective, the best solution to a problem might well be the one that takes the most time, as long as the time can be justified.

10. Jennifer Howard, *Learning to 'Think Like a Lawyer' Through Experience*, 2 CLINICAL L. REV. 167 (1995).

11. Anthony Alfieri, *Reconstructive Poverty Law Practice: Learning Lessons of Client Narrative*, 100 YALE L.J. 2107 (1991).

12. Katherine T. Bartlett, *Story Telling*, 1987 DUKE L. J. 760 (1987); Richard Delgado, *Storytelling for Oppositionists and Others: A Plea for Narrative*, 87 MICH. L. REV. 2411 (1988); Binny Miller, *Give Them Back Their Lives: Recognizing Client Narrative in Case Theory*, 93 MICH. L. REV. 485 (1994).

than others.¹³ As clinical teachers, we can learn something about negotiation by watching gifted non-lawyer bargainers in action, and then relating their stories. By learning how others “think about the problem” of commitment in negotiation, we can improve our own ability to instruct our students. Here is one example of a way to think about commitment in negotiation.

III. A STORY FROM PETTICOAT LANE

For well over a century, London's East End has served as a port of entry for newly arrived immigrants. The heart of the East End for nearly all of that time has been Petticoat Lane,¹⁴ a vibrant street market where vendors can set up stalls and sell all manner of low-priced goods. Once predominantly Jewish, Petticoat Lane is now the domain of newer immigrant groups, chiefly from the Indian subcontinent.¹⁵ Every Sunday, there is a lively competition among hundreds of sellers for the attention and, hopefully, the money of the passing crowds.

Street-market peddling is a form of negotiation.¹⁶ Actually it is a series of negotiations. The seller must first bargain for a buyer's attention, usually by offering an attractive array, a clever pitch, or some other form of motivation. The buyer then responds with an expenditure of time. It is only if this first negotiation is successful that the seller can move on to the next stage of negotiation—offering specific goods for purchase. But this also turns out to be an extended process. The seller must actually negotiate to hold the buyer's attention while displaying a variety of goods and quoting a series of prices. In other words, it is only by maintaining the buyer's interest that the seller can obtain enough of the buyer's time to pursue the negotiation through to the desired conclusion—a sale.

This process can be re-stated even more succinctly. First, the seller offers entertainment and the buyer responds with time. Once that relationship has been established, the seller offers wares and the buyer responds with money. The challenge for the seller, then, is to move the negotiation from the first level to the second.

13. Roger Fisher & William Jackson, *Teaching the Skills of Settlement*, 46 SMU L. REV. 1985 (1993).

14. The name Petticoat Lane derives from an old saying that by the time a woman crossed from one end of the market to another she would have her petticoat stolen—and would be able to buy it back again. Darlene Arden, *Step Back in Time to London's Jewish History in the East End*, BOSTON HERALD, Jan. 23, 1994, (Entertainment), at 55.

15. Maggie O'Kane, *Things Ain't What They Used to Be as Bloom's Shuts East End Doors*, THE GUARDIAN HOME PAGE, Feb. 24 1996, at 3.

16. Paul Twivy, *Marketers Can Learn Petticoat Lane Practices*, MARKETING, Dec. 16, 1993, at 10; Judy Bevan, *City Profile: Street Trader at the Top of Christie's*, SUNDAY TELEGRAPH, March 7, 1993, at 68.

No one understands this challenge better than the vendors of Petticoat Lane. Over generations of practice, these vendors have developed pitches, spiels, patter, and technique, all designed to bridge the gap between attention and purchase. Some peddlers have developed extended acts that have all but become variety shows. They joke, entreat, sing, and occasionally dance, exploiting their knowledge that the longer people watch, the more likely they are to buy.¹⁷

Although this sales method has diminished following the rise of department stores and growth of print and televised advertising, I recently had the opportunity to observe a master at work. I have come to think of him as "Nick," though I never learned his proper name. He operated out of a storefront on London's Oxford Street. This street was once one of that city's classiest shopping thoroughfares, though now in slight decline and given increasingly to discount stores and off-price imports. Oxford Street is removed from Petticoat Lane by about four stops on the Underground, several levels of economic comfort, and at least a generation or two of British citizenship. However, Nick had clearly done his training at the street market.¹⁸ The storefront was just a slightly fancier, waterproof stall.

Nick sold consumer electronics: compact disk players, calculators, cameras, video games, and similar items. Nothing was on display and all the goods were kept in a back room. The storefront itself was completely empty. There was not a chair, not a counter, not a cabinet. The only furniture was a dais and podium at the front of the room, where the hawker stood with a clip-on microphone attached to a comfortably powerful public address system. The shop was equipped with a garage-style overhead door so that it could be made completely open to the street. In fact, with the door rolled up, the shop became an extension of the street.

The peddler's first (and easiest) task was to draw customers in from the street. There was plenty of pedestrian traffic on Oxford Street, and though most people seemed to be rushing from one place to another, the steady patter from the store's loudspeakers ensured that a constant stream of passers-by would enter the shop. That was the first negotiation: "If I make my public address system loud enough to

17. This same approach was in operation at 19th century American medicine shows, where sales were made by wooing customers with carnival performers and other entertainers. Descendants of the medicine show genre continued to ply trade shows and conventions well into the 1960s, selling "ginsu knives" and other household goods from makeshift platforms. Television eventually wiped out these traveling pitchmen, although you can still see their spiritual progeny on today's "infomercials."

18. I have seen the very same techniques used in Petticoat Lane, though never so effectively and never for the sale of such sophisticated, relatively high-priced products.

attract you, but not so loud as to annoy you, will you spend some of your time in my shop?"

The second task was to keep the people in the store long enough to begin selling. That was harder. It takes only a small expenditure of time to poke one's head into a shop in order to investigate. But it was a much greater commitment for these passers-by to enter the store and wait (remember, there were no goods on display) for the selling to start. One way Nick kept people in the store was by telling jokes. Not great jokes, not night club quality material, but enough ever-so-slightly off color humor—interspersed with promises of fantastic bargains—to keep the crowd entertained while new customers continued to arrive. That was the second negotiation.

Why not sell the goods constantly? Why keep consumers waiting? Why make the sale seem more like a show? Two reasons. First, Nick needed a critical mass of customers in order to make his pitch. His sales technique was a set-piece that could not be delivered to a continuously shifting crowd. More importantly, he was looking for commitment. The longer someone stayed in the store, the more likely he or she would be to buy something. Once customers invested ten or fifteen minutes watching the routine, they would want to have something to show for it.¹⁹

Of course, even the best spiel could not keep the shoppers' attention forever, or even for very long. Which brings us to Nick's third level of negotiation. Once the crowd was large enough, Nick began offering small (but far from worthless) electronic items for unbelievably low prices. In the manner of an auctioneer, he asked "Who'll give me 5 pounds²⁰ for a video game player?" Everyone thought it was another gag or quip, since the device was worth almost ten times that amount, so no one spoke up. Nick continued by picking somebody out of the crowd, "You, sir, wouldn't you pay 5 pounds for a brand-new, in-the-box video game player? Well, give me five quid and it's yours." The customer, perhaps a shill, agreed and the game player was handed over.

Now people began to see a payoff for their investment of time. Nick had raised the negotiation to a new plane. Money was on the table, in addition to time. Then came the next phase of negotiation. "Who'll give me fifty pence²¹ for a Walkman?" This time hands shot up all over the room. True to his word, Nick tossed a pocket-sized tape cassette player to a customer, and one of his assistants collected the nominal fifty pence. "Who'll give me half a pound for a Discman?" More

19. Although this is contrary to the standard economic wisdom that "sunk costs" should have no bearing on future conduct, it is, as we shall soon see, an accurate understanding of negotiation behavior.

20. About \$8.00 U.S. at the then-operative rate of exchange.

21. Less than 80 cents.

hands, another putative sale—although it was really a gift or premium for sticking around. In the next five minutes, Nick probably handed out a dozen or more tape players, CD players, and the like, all for virtually nothing. Anyone who got one wanted more and anyone who did not was anxious for a turn. The shoppers were feeling increasingly committed to hanging around.

Nick was now offering something far more valuable than entertainment. Out came a video camera. “Who’ll give me 30 pounds²² for a new, full-feature video camera?” Well, 30 pounds is a lot of money, especially compared to 50 pence, but a hand or two went up. “Will you give me 30 pounds for this video camera? If I throw in a CD player, will you still give me 30 pounds? If I add a digital assistant, will you still give me 30 pounds?” Now hands were up everywhere. True to his word, Nick chose the lucky individual and handed over all of the prizes in exchange for 30 pounds.

What was going on here? Why the massive giveaway? Had Nick figured out a novel way of laundering stolen goods?²³ Actually, Nick was investing in commitment. The early distribution of some surplus inventory sent the message that it might pay off for customers to stick around. “If 30 pounds bought all that stuff,” wondered the individual shoppers, “what could I get for 10 pounds? Or 50 pounds? Well, there’s only one way to find out. Invest more time.”

But not only time. Nick was moving toward the end game. “We have lots more to sell and give away today. I promise you’ll thank me. Do you trust me, sir?” The customer agreed to trust Nick. “Give me 5 pounds.” The customer complied. Nick handed over a full sized CD player, easily worth 50 pounds or more. “Who’ll give me 5 pounds,” called Nick, “I promise you’ll thank me.” Hands went up all over the room. Nick called to his assistant, “Look in the back room and see how many of these CD players we have.” The answer was fifty. “Will fifty people give me 5 pounds,” shouted Nick. The hands all stayed up.

Assistants walked around the room collecting five-pound notes, passing out colored paddles in exchange. Those who did not come up with the five quid were politely shown to the exit, leaving about forty people to view Nick’s wares. The overhead door was shut. Anyone could leave, but newcomers were discouraged. Nick had his audience of committed shoppers. After twenty minutes of build-up, it was time for the real sale to begin.

22. Under \$50.00 U.S., again about 10% of the item’s value.

23. At some point everyone must have entertained a suspicion that the products were stolen; I know I did. In fact, Nick joked from time to time about selling stolen property, always adding immediately that his stuff was absolutely legitimate. And common sense surely argues that Nick was telling the truth. No one could sell stolen property that brazenly, and certainly not in law-abiding Britain.

Another video camera appeared. Hands dug into pockets, searching for the 30 pounds that the last one had sold for. "Who'll give me 150 pounds²⁴ for this video camera," cried Nick, describing its features, warranties, and value. There were no immediate takers. "Cash, check, credit card. Payable in any currency. Only 150 pounds for this brand new video camera. What if I add a CD player? What if I add a Gameboy?" A hand went up, then two more. "Sir, will you take all these goods for 150 pounds?" The customer nodded. "Did I promise that you'd thank me?" Another nod. "Then take the video camera, the CD player, the Gameboy, and I'll add a VCR, all for your 150 pounds?" The deal was made. The next buyer also paid 150 pounds for a video camera, but did not get the extra items. And so the sale progressed, as Nick wheedled the base prices ever higher, intermittently throwing in extraordinary bonuses. Every now and then there was another virtual giveaway, but the norm had clearly changed from astonishing freebies to standard discounts. But people kept buying at prices ranging from 50 pounds to 250 pounds, everyone seemingly satisfied with their purchases, and the lucky few overwhelmed at their good fortune.

The point is this. Not a person in that room had left home that morning intending to spend hundreds of pounds on electronic equipment. No one had wandered into Nick's shop expecting to come away with a VCR or a computer. Nick knew that. If he had begun by offering video cameras at 150 pounds, he would not have made a single sale. No one was shopping for video cameras, at that price or any other, in an unfurnished storefront on Oxford Street. Nick, however, had managed to turn strollers and bystanders into customers. How? What was the secret of his success?

Nick's insight was that he could sell his goods by obtaining the incremental commitment of his shoppers. As they became increasingly invested in his enterprise, they became increasingly likely to spend their money on his goods. There were three keys to his method.

First, he extracted commitments of time from as many potential customers as possible. Indeed, not only did Nick initially persuade people to enter his shop by entertaining and amusing them, he also used a series of surprises and deals to entice them to remain in the store, thereby further committing them to invest their time.

Next, Nick obtained a token down payment of 5 pounds from as many members of the crowd as possible. This willingness to commit money effectively separated the browsers from the deal-seekers, allowing Nick's assistants to escort the mere spectators from the shop. More importantly, everyone who stayed in the store had a 5 pounds investment in making a purchase. Once Nick held their money, they

24. Around \$235 U.S., which was probably half the retail price, but not an unbelievable bargain.

had a stake in getting it back by bidding on a camera, tape deck, or VCR.

Finally, Nick obtained what we might call ego commitment. Note that he took people's money through means that were almost-but-not-quite-crooked. The first few people who gave him 5 pounds were rewarded with spectacular piles of prizes, the implication being that he was selling all those goodies for a mere 5 pounds. Of course, that was not true. When fifty people handed over their five-pound notes it turned out that they had bought nothing more than the right to pay ten to forty times more for the same stuff.

One could not say that Nick was being deceitful. He never said what the 5 pounds would or wouldn't buy. He merely allowed the covetous shoppers to assume that they were about to get something for nearly nothing. When that did not happen, the customers were left with a choice. They could get angry with themselves for being tricked, or they could decide to hang around and buy something, thereby justifying the decision to give Nick the money in the first place.²⁵ In other words, the decision to buy something became the equivalent of validating one's own cleverness.

IV. LESSONS FOR LAWYER-NEGOTIATORS

The first lesson from Petticoat Lane is that psychology trumps economics.²⁶ While to most this may seem like an unremarkable conclusion, it should be a powerful instruction to modern law students, most of whom have been taught at some point that law-and-economics modeling can predict real world activity.²⁷ In brief, the standard law and economics theory posits that rational actors will pay no attention to sunk costs, but will instead base their decisions strictly on future costs and benefits. A good explanatory paradigm is the poker game in which current betting ought to be based on the value of one's present hand, not on the value of what one has already lost. In other words sunk costs are just that, sunk, spent, gone. They cannot affect the future.

Rationally, then, Nick's device of extracting a five quid commitment should have been meaningless. A shopper's willingness to spend, say, 60 pounds or 80 pounds on a VCR should be based on the

25. There was actually a third choice as well, which was to regard the five pounds as an expenditure for entertainment or negotiation education, and to leave without spending more. That was the approach I followed, although, at least as of the time I left, no one else appeared to do the same.

26. See Mark I. Satin, *Law and Psychology: A Movement Whose Time has Come*, 1994 ANN. SURV. AM. L. 581, 582 (1995).

27. For another story rebutting the utility of economic prediction, see Steven Lubet, *Notes on the Bedouin Horse Trade or Why Won't the Market Clear, Daddy*, 74 TEX. L. REV. 1039 (1996).

value of the VCR and the customer's access to discretionary funds. The "sunk" 5 pounds should not make a difference. But as Nick well knew, it certainly did make a difference. People wanted to "get something" for having spent the time and put up the 5 pounds, and that made them more receptive to Nick's pitch.

In other words, as every lawyer should understand, people can be stimulated to act by a wide variety of factors, only some of which are "rational" in the strictly economic sense. One key to negotiation, then, is the discovery of what we might call the other party's "psychological motivators."

Nick's example further teaches us that commitment or investment can be a powerful motivating force. Recall that at every stage in his negotiation set-piece, Nick sought a small additional commitment—first in the form of time, eventually in the form of money. The more preliminary commitments he obtained, the more likely he was to succeed in his bargaining.

How can this approach be applied to negotiation by lawyers? What sorts of commitments might one exact from a reluctant adversary in the course of negotiating a settlement or transaction? There are several possibilities.

First and foremost, a lawyer should exact a commitment of time from an opposing lawyer or negotiator. According to Nick's example, one's chances of reaching an agreement will increase with the duration of the negotiation. The more time that the opposition devotes to negotiating, the more likely it is that they will want to come away with something to show for their investment of time. Thus, an offer that was not immediately attractive or sufficient, might be acceptable at the end of a protracted discussion. Therefore, one would want to employ a variety of devices to keep the negotiation going. For example, consider the following.

- Make the negotiation enjoyable. Your adversary/partner will be more likely to continue negotiating if the experience is not painful. Therefore, be as pleasant as possible and avoid threats, coercion, or ultimatums.
- Offer intermediate rewards. Make sure that the negotiation shows progress. Use incremental concessions to maintain momentum.
- Keep the "prize" a secret. Do not reveal your ultimate offer until the other party has invested considerable time waiting for it.

Nick's second technique, the extraction of cash, is more difficult to adapt to lawyers' negotiations. Under all but the most unusual circumstances, no other lawyer will pay money for an opportunity to continue negotiating. On the other hand, payment can come in forms other than cash. Perhaps the other party might be persuaded to pro-

vide you with a written proposal or a list of demands. Perhaps you might agree on procedures for negotiating. You might even tentatively resolve a series of sub-issues. Every partial step toward the ultimate resolution constitutes an "investment" in the outcome that is at least as palpable as the 5 pounds that Nick acquired from his customers.

There are many other ways to negotiate with lawyers. At one extreme, there is the value-creating approach, in which all information is shared in the hope of achieving a win-win solution. The polar opposite is "Boulwarism," which involves making a single offer and sticking to it unyieldingly throughout the negotiation. There are many other choices along the flexibility continuum. There are also many other ways to sell electronic equipment.

The lesson from Petticoat Lane is that Nick's approach works in certain situations. It is a device, a tool, a medium, that may be successfully employed when the circumstances are right. But what are those circumstances? Again, the answer lies in close observation. Nick had plenty of goods to sell, and no use for them other than to sell them. He was strongly motivated. His customers, by contrast, were hardly motivated at all. They had no idea that they needed or even wanted the goods that Nick had for sale. They needed to be enticed or encouraged to pursue the negotiation. But note that Nick did not beg, wheedle, or cajole. His entire *shtick* was designed to make his goods seem worthwhile, attractive, and valuable. Extending this scenario to legal negotiation, we conclude that Nick's commitment technique will be most useful when one has a good offer to make and the other party does not yet realize it.

V. CONCLUSION

What does all of this tell us about clinical legal education? Simply that a pleasant, promising negotiation may sometimes achieve superior results.

What is the value of the extended anecdote about Nick and Petticoat Lane? The answer is that we learn through experience. Imagine if I told you that "In the right situation, you might want to encourage a negotiating partner to make increasing commitments to you in order to enhance your chances of success." Your almost certain response would be a series of questions: What circumstances? What sort of commitments? Why? When? How? Nick's story provides a cognitive answer to these, and other questions. Equipped with a narrative, we may more readily understand the details and elements necessary to employ this particular technique.

Narrative, however, is nothing more than experience once removed. By studying the story of Petticoat Lane, we can substitute Nick's education and past practice for our own. Clinical education

goes one step further. Clinical education creates, reviews, and refines the experiences themselves. After that, practice makes perfect.