Lawyering Through Life is an autobiography by Louis M. Brown, a long time practicing lawyer and law teacher, who is best known for his ideas on what he calls preventive law. In fact, the subtitle of Lawyering Through Life is The Origin of Preventive Law.

Louis Brown, born in Los Angeles in 1909, attended the University of Southern California, where many years later he taught in the Law School—injecting into his courses his theories on preventive law. He earned his law degree from Harvard, where he was inspired by Roscoe Pound.

Louis Brown realized early in his career that a “law school education rarely considers the largely unreviewable judgment choices which lawyers exercise.”1 There is “great finality in the lawyer-client relationship.”2 Once a lawyer has drafted a will and a client executes it, the act is done and the client’s death seals the lawyer’s work. There is no appeal from the lawyer’s law office drafting of contracts, wills, deeds, etc. Brown’s life has been inextricably bound to his preventive law theories. He has asserted that litigation is the “disease” of which most people believe lawyers thrive, but litigation is not the legal profession’s purpose. The lawyer’s purpose is “the protection of legal rights.”4 Lawyers and their professional associations can foster “a legally healthier society” by emphasizing the ideals of preventive law.

Preventive law, he says, focuses on the lawyer in the law office, “so that a jurisprudence of the lawyering process helps to underpin or

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2. Id. at 149.
3. Id. at 137.
4. Id.
5. Id.
lay a conceptual foundation for the practice of preventive law."6 Lawyer decisions in the law office "involve factors with which appellate courts are not concerned."7 These factors are the stuff of which Louis Brown’s theories are made.

Perhaps the first question to be asked is what do lawyers do. This leads to other inquiries. Are lawyers’ tasks to be categorized conceptually or factually? Conceptually, lawyers practice tort law, contract law, property law, tax law, etc. "Lawyering is law and more."8 Factually, lawyers do all manner of things. Lawyers’ work tasks can be divided into such activities as negotiation, drafting, litigation, investigation of facts, legal research and analysis, lobbying, brokering, public relations, filing, adjudication, financing, property management, referrals, supervision of others, emotional support for clients, advising clients on every conceivable matter including the shouldering of burdens and disagreeable matters.9

Louis Brown, however, does not stop here.10 The jurisprudence he is seeking is one in which the starting point is the lawyer and the individual.11 "In the nonlitigation work of a lawyer, decisions include the decision to accept a client, to advise that a transaction go forward, to make or accept an offer, to shape a transaction differently than the shape proposed, to have the client transfer property, and so on."12

It is obvious that the task he has undertaken is an immense and complicated endeavor. Because of the complexities in defining his ideas, Louis Brown created a number of devices to demonstrate that about which he was talking. He created the personal and periodic legal checkup.13

Says the client to the lawyer: "I have no legal complaints. Nobody is suing me. I have no one I want to sue. Nothing is wrong with me that I know about. But, I am not a lawyer. You are the lawyer. You know, or ought to know, the law. So you tell me if I am legally okay."14

6. Id. at 111.
7. Id.
8. Id. at 154.
11. Id.
12. Id. at 111.
13. Id. at 187-188.
14. Id. at 187.
So what does a lawyer do with this question? Lawyers have viewed their roles as dispute resolution oriented; the client has an identifiable claim or defense. Without these claims or defenses the traditional lawyer is at a loss. 15 Louis Brown saw that this picture was "partially false." 16 The client who seeks a will is not dispute oriented, but there is a "significant legal service to be rendered." 17 In innumerable situations the lawyer is actually involved with clients before any dispute is possible. 18

The lawyer then must see to it that clients have a legal checkup, a "legal inventory." 19 This led to a 1974 "Manual for Periodic Checkup." 20

The most time-consuming aspect is obtaining the client's legal facts and organizing those facts within a client file. To use the medical analogy again: this is the legal x-ray and technical laboratory work. The manual instructs the legal technician, or paralegal, how this aspect of the periodic checkup is to be accomplished. A lawyer, somewhat experienced in analyzing and diagnosing such a client's file, should meet with the client and during a law office session, be able to give a reasonably workable answer to our hypothetical client's inquiry. 21

Clients find that the checkups are educational for them and they are alerted to a "number of legal aspects of their lives." 22 Such things as inadequate insurance coverage for liability, failure to review a will executed many years before, failure to adopt a child who is living with a client, mixing of marital properties so as to cause problems in a decedent's estate or divorce, or failure of a person to take adequate security on a promissory note from one in whom the lender had great faith, are examples of facts which come up in a legal checkup. 23 "The legal profession has yet to learn, and clients have yet to appreciate, that there is value in a professional diagnosis whether or not 'problems' are surfaced." 24

15. Id.
16. Id.
17. Id. at 188.
18. Id.
19. Id.
20. Id. at 189.
21. Id.
22. Id. at 190.
23. Id.
24. Id. at 191.
Business clients can have similar types of periodic legal reviews, though more complicated, and a periodic legal audit can call attention to future problems and maximize legal opportunities.25 Similarly, by analogizing the medical approach, the idea of a legal autopsy came into being. We should try to develop a methodology whereby we can improve lawyer performance by digging into past experiences in law offices. Lawyers do not “conceptualize their experiences.”26 We should try to determine the causes of legal troubles.27

The remarkable fact is that although we have reports of thousands of cases, those cases seldom reveal the basic cause(s) of the disputes. Litigation is, I believe, often a symptom of legal trouble. Litigation often treats symptoms rather than the underlying causes. At least, if this observation is worth testing, autopsy is a method for doing so.28

Besides the explanations of preventive law theory, this book is a warm and idealistic story. A man whose hobbies are world peace as a study, music—the playing of the viola and violin, and photography is a gentle, sensitive and kind person.

Perhaps the best description of Lawyering Through Life is a quote from the Chapter on “Law Practice (1947-1972)” which says:

I observed that a lawyer can have considerable influence on the behavior of a client and of others with whom the client engages in business. That observation, which is fundamental, was no part of my law school education. Ultimately I have come to say that more decisions affecting human conduct are made in law offices than are made by all the trial courts. With only a handful of litigated cases, but with a warehouse full of law office matters, the law office became a place where law is. The law of the law office includes the law of the appellate court (law school law), but goes beyond into other realms of art, knowledge, and reasoning.29

Louis Brown has made a significant contribution to the legal profession and to law teaching. Over the years, he has contributed to this reviewer’s education in many ways. However, it must be said that whatever Louis Brown’s experience in classrooms other than his own,

25. Id. at 192.
26. Id. at 202.
27. Id. at 203.
28. Id. Dispute always has an historical origin. Id. at 248. “Litigating lawyers . . . are essentially historians who recreate in the courtroom the history of the dispute.” Id.
29. Id. at 71.
he has exaggerated the teaching of what he calls “book law” in good schools. Law schools today are different from the Beale oriented establishments of the early 1930’s. In reading Lawyering Through Life, one receives the impression that the author has been in a hostile law school environment all of his teaching career. He stated that it “was, and is, uncommon to find a faculty member with a probable interest in plumbing the depths, questioning the premises, exploring the side effects, and so on.” Yet it can be asked whether Louis Brown has sat through some of the great teaching which has gone on around the United States. It can also be questioned whether preventive law theories are anything more than adjuncts to what has to be covered in law school. A law student has to crawl before he or she walks. A legal education composed mainly of what lawyers do would not only be very incomplete but it would be superficial. As one lawyer said to me recently, preventive law can be practical in the “in-house” setting of corporate and similar types of situations, but in the hectic general practice of law it is near impossible. He said that “checkups” and autopsies are fine in a rarefied atmosphere—“just like with the scientists in a laboratory.”

Many law school courses are, by definition, based on court-made law and other doctrines, and not lawyer decisions. It is extremely difficult, for example, to deal in lawyer decisions in courses such as those in the International Law areas.

It may be that our law schools are the way they are because the students and faculty realize that the materials they use are the only specific, understandable and least amorphous matter they can find.

Also, our basic analytical methods are fundamental to a student’s ability to “plumb the depths” in any subject, and law schools generally have done a good job in turning out good lawyers for this society.

It is said that, “legal education would probably be vastly different if the teaching materials were derived from lawyers’ decisions. The focus would then be on the reasoning processes and decisions of lawyers, rather than courts.” One can only wonder if such a feat is possible or whether it is a valid approach. The unbelievable complexity of the lawyer’s work tasks militates against a complete standardization of what lawyers do.

In spite of these reservations about his theories, there is no doubt

30. Id. at 82.
31. Id. at 206.
32. Id. at 208.
that Louis Brown is a pioneer, and such people will always be in a hostile environment. He is an extremely bright and intuitive person, and one of a kind.

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