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Teaching law, learning French

By Susan B. Apel

I've been teaching law for twelve years. In struggling to keep myself and my students interested, I have read, reflected, and experimented, diagnosed, and evaluated.

I've talked with students, practitioners, other professors, and, on occasion, myself. All of these activities have been useful. Quite fortuitously, however, the best thing I've done was to audit a course in introductory French.

For the teacher like myself whose own law school memories have begun to dim, who (finally) has gotten to the point where she feels she has mastered her subject matter and technique, and for whom the classroom has become a comfortable place that holds no terror, I recommend a temporary exchange of roles.

Put aside the persona of the confident professor, with years of teaching and practice experience, and become, for three hours a week, the student.

And not the dean's list student, either. Study something that has always interested you, but at which you don't excel. For me, speaking French was a long-time dream. When I began to study it, I realized that a thick tongue and a tin ear were not exactly assets.

Traveling between my professor and student roles gave me a much greater insight into the feelings and behavior of my students. I thought I understood, even sympathized, with students who sit in the back row, avoid eye contact, want to say the answer but aren't sure they understand the question.

In my French student role, I, the formerly "A" student from kindergarten on, found myself dismayed when the chairs in the room were arranged in a semi-circle so as to eliminate the back row. I rehearsed my answers in my head before I raised my hand and, when I didn't know the answer, was relieved when the professor's eyes looked to the other side of the room. Most of all, despite the fact that I have come to think of myself as an adult person who does not require approval to sustain her well-being, I was ecstatic when the professor smiled, nodded, or, wonder of wonders, said "Good!" after I uttered "C'est moi."

Back in my own classroom, my sympathy turned into empathy. Feeling ridiculously like Bill Clinton, I wanted to say "I feel your pain" to the students who tried hard to look elsewhere when I asked a question. I, too, knew what it was like to be called on, have someone speak in a foreign

language, and want an answer. While I had never seen myself as being stingy with positive reinforcement, I gained a heightened awareness of how powerful a simple nod of the head can be. Moreover, I experienced that awful, difficult-to-admit-to comparison of myself to others, who, it seemed to me, probably dreamed in French and had the conditional and imperfect tenses for breakfast.

A couple of things saved me. One was that nothing important rode on the quality of my performance. I was, thank God, already happily employed. I was there in the most voluntary of senses, purely for the fun of it.

But I wondered: What if I had been, like most of my classmates, 18 or even 21 years old? What if I felt as if my fate were inextricably bound to achieving in a course in which my answers were more often wrong than right?

For those who would like to skip the pain and, upon reading this, might say to themselves that they can imagine all of these feelings without signing on for the rigors of becoming an actual student, I say I once thought so, too. Imagining the feelings and experiencing them are two entirely different things, however. Drawing from my insights from clinical teaching, it's the difference between imagining how a lawyer might feel conducting her first deposition and actually doing it. My advice is that you don't cheat yourself out of the authentic experience.

Put aside the persona of the confident professor, and become, for three hours a week, the student.

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From the director

Science, art, and heart of law teaching

By Gerald Hess

The Institute held its first annual conference on law teaching last July at Gonzaga University. The title of the conference was "The Science and Art of Law Teaching."

The conference featured six workshops. The presenters were Professor Corinne Cooper (University of Missouri -- Kansas City School of Law), Dr. Jim Cooper (California State University -- Dominguez Hills), Professor Lynn Daggett (Gonzaga University School of Law), Professor Paula Lustbader (Seattle University School of Law), Dr. Martha Peters (University of Florida School of Law), and Professor Paul Wangerin (The John Marshall Law School).

Each workshop presentation was based in part on the relevant higher education literature. That is the "science" of law teaching. Each presenter used his or her experience in working with students to illustrate how the results of that higher education research apply in classrooms. Those practical skills and lessons learned from experience are part of the "art" of law teaching.

The participants evaluated the workshops and the materials prepared by the presenters very highly. Glowing comments were typical: "Provocative but excellent." "Will be able to use the ideas immediately." "This is a superb presentation of an important learning strategy." "Information geared to be useful; good class participation; dynamic presentation; good use of visuals."

The participants' evaluations of the workshops were positive, but they don't capture the essence of the conference. As one participant put it, "The whole was greater than the sum of its parts." Indeed. The key to the success of the conference was the participants.

The fifty participants, from thirty law schools, brought three wonderful attributes to the conference. They brought their love for teaching. They brought their willingness to share their considerable expertise with their fellow teachers. And, although they already were highly skilled teachers, they also brought their desire to be even better. Those attributes are the "heart" of law teaching.

The participants also brought to the conference short written descriptions of teaching ideas to share with their colleagues. Those ideas were the focus of small-group sessions at the conference. To give wider distribution to the participants' excellent ideas, this edition and the spring edition of *The Law Teacher* will report many of the participants' teaching tips. In this small way, the "science", "art", and "heart" of law teaching, which were so palpable at the conference, will be available for all law teachers to sample.

Gerald Hess is a professor of law at Gonzaga University School of Law and director of the Institute for Law School Teaching.

Giving your students some 'real life' experience

Participants at the Institute's 1994 conference offered many ideas for giving their students "real life" experiences. Here are some suggestions:

At the beginning of each new semester, the new interns for our real client clinical program have an orientation period to familiarize them with the local court procedures, clinical program office procedures, and general family law statutes and mandatory, statewide forms.

As part of that orientation, interns are required to observe four family law motion dockets. They are to observe one docket call and the four hearings may be on one to four different dockets.

The intern records the following information: (1) date of docket; (2) name of case; (3) commissioner hearing case; (4) respondent's attorney; (5) petitioner's attorney; (6) type of motion; (7) issues being argued; (8) decision; (9) your reaction to decision (*i.e.*, fair and equitable?); (10) good points of the arguments and attorney styles; (11) aspects of the argument or style that were poor or ineffective; and (12)

why they were ineffective.

This forces the intern to familiarize themselves not only with the local courtrooms and family law procedures, but also with the various court commissioners and their approaches to decision-making. The interns frequently compare notes and reach conclusions about members of the bench. They also begin to know the family law members of the bar who may well be opposing counsel at some future date.

- *Submitted anonymously*

To make ethics and ethical dilemmas more "real" to students, we have tied our Ethics seminar into the work done by the students in the Legal Aid Clinic.

The class is limited to approximately 12 students. The students and I meet once a week for two hours, basically to talk about ethical problems that the students or I have

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‘Real life’

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encountered in the cases that they work on in the clinic. I assign a reading for the students each week, and I require them to keep a journal containing their reflections. Their reflections may be on the reading and how it relates to their cases, or it may be on any matter that arose and that relates to ethics in any way.

Before the group meeting, I ask students’ permission to talk about their journal entries in class or ask the students themselves to talk about their journal entries. Occasionally, we invite a guest speaker to participate. This has been helpful when the topic that we are discussing relates to a particular area of expertise such as representing children.

I have found that because the ethical dilemmas encountered arise in actual rather than hypothetical cases, students are more prone to seek solutions. This is not to say that one solution is prescribed or mandated, but the student who has the ethical problem actively seeks help from his or her peers; this encourages and stimulates group participation.

This method of teaching ethics is much more rewarding than teaching Professional Responsibility from the Model Rules. It encourages students to explore ethical and moral issues, and it also highlights the fact that the ethical rules and code more often than not do not provide the answers.

- *Submitted by Christine Venter, Notre Dame Law School*
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Last semester, the class and I agreed to incorporate “service learning” into our course on housing and community development.

We had a recent alumna who was interested in working in the public interest/housing area, but was unable to find a job. She decided to form her own nonprofit corporation and apply directly for funding for a home for single, unwed mothers. She had to develop a plethora of legal documents to support her application.

I originally planned the class as a traditional two-hour course with a three-hour final at the end of the semester. On the first day of class, I told the class I wanted to try something different, and proposed that we adopt the nonprofit corporation as our “client,” write two or three papers each on different topics designed to help the alumna in her application, and still have a one-hour final at the end of the semester.

Because the registration material had listed the course as a non-paper course, I told the class I had to get the consent of each student to convert to a paper course. I then said that before we voted on the proposal, I wanted the class to meet the “client.” The alumna stepped forward and spent the next hour setting out the dire need for safe housing for unwed mothers with small children that exists in south-central Los Angeles and her proposal to buy a boarded-up building and turn it into a mixed-use housing and training center for the

tenants. By the end of the hour, the class had unanimously and enthusiastically adopted the proposal.

The service-learning component of the class really brought the class to life. I had the “client” come in several more times during the semester to update us on her progress. We took a field trip to the boarded-up building she had under contract to view the environment and to visualize her plans. We also were able to relate the materials in the course to her particular project. And we were able to contribute toward a project that will make a difference in the lives of the people selected as tenants and in the immediate community around the building. It is impossible to discuss in detail all the tangible and intangible benefits we received from adding the service-learning component of the class, but I can say without question it made the class the most meaningful class I have ever taught. Several students said it was the most meaningful class they took in law school.

- *Submitted by Peter Wendel, Pepperdine University School of Law*
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As I was trying to develop a syllabus for a Criminal Law class, I remembered how dry and boring the course seemed when I was in law school. It was not until I had been practicing for several years that I stumbled into the exciting realm of criminal defense.

I am a chronic newspaper-clipper. In my apartment are withered snippets of articles going back for years. Many of those articles deal with the bizarre things people do that lead them to getting arrested and prosecuted. While looking through my collection, the germ of an idea began to crystallize. I decided to select what turned out to be three major stories involving different types of crime. Each news story formed a unit from which I developed three to four weeks of reading and discussion.

After some slight modifications, I gave the stories to the students. We spent the next class discussing what the students knew about the actual case; what they thought they needed to know about the crime, the victims, or the defendants if they were going to prosecute; and what they needed to know if they were going to defend the accused. Based on their discussion, I assigned readings from the casebook and supplemental materials if required. After discussing the assigned reading, we talked about what the principles in the reading meant to our unit case.

This approach allowed the students to learn about crimes, defenses, and theories of punishment in a real context. The level of discussion and participation in the class was outstanding. Having the context of the original news story before they did the reading allowed students to quickly decipher the significance of the cases and note material.

- *Submitted by Michelle Jacobs, University of Florida College of Law*

Coping strategies for research seminars

By Kevin C. McMunigal

I encounter three persistent problems in my research seminar, but I've developed some effective strategies for coping with them.

My seminar format is fairly standard: Twelve students complete research papers. For the first six weeks, I supply the reading. A two-week break from class meetings follows for completion of first drafts due in the eighth week. Two students present their papers in each of the final six weeks. A week before each class, students receive copies of the papers to be presented the next week; these papers are the reading assignment for the class.

The problems

- *Procrastination.* Law school seminar students react quite predictably to the gauntlet of competing incentives they run. They resort to academic triage. The conventional strategy is to tread water in a seminar while devoting limited time and energy to more immediate pressures — job interviews, moot court and journal deadlines, daily classes. The semester ends with a research and writing binge fueled by caffeine and the adrenaline rush of a deadline and impending exams. My students' written work suggested procrastination was epidemic. First drafts reflected hours rather than weeks of work.

- *Inadequate thesis development.* My seminar students exhibited a near-primal attraction to the research memo as their model for legal writing. Page after word-processed page summarized and described cases, rules, statutes, articles, and opinions. Analysis and evaluation of these materials, much less advancing and supporting positions, seemed taboo.

In one-on-one sessions to review drafts, I cajoled and demanded. The students nodded and smiled. But their final papers provided little if any analysis or thesis development. Some would take positions, but simply tack them on as the last pages of their final papers, rather than supporting them throughout.

- *Lack of student engagement.* The third problem I encountered was the students' reluctance to invest time, energy, and interest in each others' work. Rigor mortis set in during student presentations. Class participation was weak. Responses to papers were superficial. In short, the student presentations often simply failed to spark the sort of exchange that marks a good class.

Procrastination and lack of thesis development were partly to blame for this lack of engagement. But it was an incentive problem, too. With no test on the material, there was no grade reward for investing in each others' work. And since the students often worked on unrelated topics, time and energy put into others' work may have seemed unlikely to bring tangible benefits for their own papers.

The antidotes

These problems stemmed in part from my failure to communicate clearly enough to my students what I expected from them. In addition, I was working against an incentive structure that discouraged students from producing what I wanted. My strategies address both of these issues.

- *Thesis statement.* A good start in getting across the notions of analysis and thesis development is simply to emphasize and illustrate them. In the first class, I tell the students what I expect in their papers and that I will monitor their progress throughout the semester. A written statement of the seminar's requirements expands on these points. Reading assignments provide material for reinforcing analysis and thesis throughout the first six classes. These meetings focus on students

articulating and evaluating each article's thesis and its support. Students also report briefly each week on the status of their papers with particular attention to thesis.

Blank stares at times leave me wondering if the message is getting through. Rather than waiting for first drafts to find out, I monitor their work on a thesis after the first four weeks. This allows time to remedy any misunderstandings prior to the first draft.

My monitoring device is one page from each student, due at the end of the fourth week, stating the student's thesis and how it will be supported. To illustrate what I am looking for, I suggest that students look at the precis used to introduce an article in many law reviews. The thesis statement allows me quickly to identify students who haven't gotten the message. I can easily require one or more rewrites of this statement in the weeks before the first draft until I am sure the student has the idea. To further emphasize the thesis point, a first draft that contains only a descriptive section with no thesis articulated or developed will not count as a first draft. In other words, no thesis, no credit on the first draft. And the first draft comprises 25% of the final grade. To ease the panic caused by the early deadline for the thesis statement, I emphasize that students are free to modify or jettison a thesis as their research and thinking progress.

- *Student editors.* My primary strategy for improving engagement in other students' work is to use students as editors for one another. This idea has two facets.

First, students are paired in editing teams, with the same two students working with one another throughout the semester. The students usually pick their own editing partners, and I do not monitor their work. I suspect the amount of work varies from team to team. From student reports, I know it is quite substantial for some.

The second aspect of the student editor idea requires each

I was working against an incentive structure that discouraged students from producing what I wanted.

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Institute considers bank of exam questions

The Institute is considering creating and administering an exam bank for multiple choice exam questions. We'll open the bank next spring if there is enough interest.

Multiple choice questions are one of the tools legal educators can use to assess law students' performance. Benefits of multiple choice questions are numerous: They're simple to grade; the ease of grading not only makes law teachers' lives less painful at exam grading time, but it also allows teachers to assess students' performance several times during the course. Multiple choice questions also can measure all levels of learning (knowledge, comprehension, application, synthesis, and evaluation), and allow teachers to cover large portions of the course on the exam. Finally, scoring of multiple choice questions is objective and reliable.

However, multiple choice questions do have limitations. Many law teachers believe they are not appropriate as the sole means of evaluating students. For example, if a primary goal of the course is to improve students' written and oral communication skills, multiple choice exams probably are not the best evaluation tool. However, if a teacher decides that multiple choice questions should be part of the

evaluation scheme for a course, the primary drawback to multiple choice questions is that it is difficult and time consuming for most teachers to write good ones.

To ease the burden of preparing good multiple choice questions, the Institute proposes to collect multiple choice questions from contributors, organize the questions by subject matter, and send the appropriate questions to any law teachers who request them.

An exam bank can succeed only if enough law teachers are willing to contribute questions. To assess the potential value of an exam bank, the Institute is asking willing contributors to identify themselves. We will establish the bank only if a sufficient number of law teachers agree to contribute. We'll announce in the spring edition of *The Law Teacher* whether the exam bank has enough contributors to justify its creation.

If you are willing to contribute multiple choice questions to the bank, please notify the Institute by December 9, 1994. Don't send your questions yet; just inform the Institute of the subjects for which you are willing to contribute questions. You can contact the Institute by mail (P.O. Box 3528, Spokane, WA 99220-3528), phone (509-328-4220, ext. 3740), or e-mail (ilst@gulaw.gonzaga.edu).

Seminars

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student in the class to edit *every other student's paper* once during the semester. This is accomplished as follows.

As I mentioned earlier, the last six class meetings are devoted to students presenting drafts of their papers. A week before each of these classes, I distribute copies of the drafts to be presented. Rather than simply requiring students to read these drafts, I require the students to *edit* them as well. Each student must turn in at the end of class a copy of the draft fully marked and edited for issues of both form and substance. Each student must also turn in a one-page sheet of written comments on the draft. I collect these at the end of each presentation.

Immediately after class, I quickly review the edited drafts and comment sheets. This review helps establish the 25% grading component for class participation. I then pass the marked drafts and comment sheets on to the student authors.

This second editing requirement has greatly improved student presentation classes. They tend to run themselves, and I usually have to cut off discussion rather than try to resuscitate it. The editing requirement forces students to prepare for class and encourages active engagement with the topic. Reviewing their editorial work after class gives me a simple way to monitor and enforce class preparation.

This editing work also may pay dividends outside the classroom. My hope is that the students' editing improves their writing by enabling and encouraging them to bring

editorial eyes to their own work. Also, each student author has the benefit of twelve edits — eleven from students and one from me — in preparing their final papers.

- *Grading.* Seminar grading that relies exclusively on the final paper severely tempts students to procrastinate. To encourage work early in the semester, I determine seminar grades by the following formula: (1) 25% on the first draft; (2) 25% on performance in class; and (3) 50% on the final draft. The grading components based on the first draft and class performance provide obvious incentives for investing in the seminar earlier in the semester.

This approach also helps alleviate the problem of lack of engagement in the work of other students. The 25% component for class participation directly rewards their efforts in class. The 25% first draft component also improves class sessions. Because the drafts reflect more work and thought, they tend to be more engaging. Also, if students are more invested during the semester in their own seminar papers, they tend to be more involved in the seminar generally and in the work of fellow students.

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Cooperative learning: Practical advice

In preparation for its 1994 teaching conference, the Institute surveyed law teachers regarding teaching topics that they wanted to learn more about. Cooperative learning was the topic most often mentioned. Four of the conference participants shared these teaching tips involving cooperative learning:

Cooperative learning is a form of instruction in which small groups of students work together on an academic task. Cooperative learning focuses on structures designed to ensure student-student interdependence. I teach first-year Torts, and my sections have varied in size from forty-five to ninety students. I have successfully used cooperative learning as a teaching method in large classes.

Here's how I implement cooperative learning in a large class:

- *Define objectives.* I make course objectives, unit objectives, and lesson objectives. The cooperative learning technique that I decide to use is based on the objective I'm trying to achieve.

- *Decide on how to structure positive interdependence.* To create goal interdependence, I allow only one answer or work product from the group. To create resource interdependence, I sometimes assign group members responsibilities for reading different resources and for teaching the other members in the group about that resource. To create task interdependence, I sometimes assign each student a task that contributes to the group effectiveness. To create role interdependence, I often assign roles in the group; the most common roles are summarizer, recorder, and checker for understanding.

- *Decide on size.* Cooperative learning literature suggests that groups of three to six are best, with four recommended as the ideal number. I form the basic group around four for classroom work, since smaller groups require more individual interaction. However, sometimes I use groups of two for in-class activities. I use groups of six for written work, so I have fewer responses to read.

- *Assign students to groups.* I assign seats to provide for heterogeneous groups based on Myers-Briggs type, gender, race, age, and prior academic performance. I try to assure that in any group of four there are at least two women, two persons of color (preferably of the same ethnic/racial background), and two Myers-Briggs "feeling" types. After the first semester, I reassign seats to provide opportunity for students to work with different individuals and to provide diversity in performance.

- *Arrange the room.* Since furniture cannot be moved and time is limited, an important step is structuring the large class so students do not have to move to be in their cooperative learning groups. It is important that members of a learning group sit closely enough that they can share materials, maintain eye contact with each other, talk quietly, and exchange ideas in a comfortable atmosphere. While the

room does get fairly noisy with twelve to twenty or more groups working, groups have never complained about that aspect of the process.

- *Choose materials.* I usually use materials that are part of the assigned reading for that day.

- *Choose the cooperative learning technique.* There are many cooperative learning strategies. I have tended to utilize the following three less complex strategies:

1. *Think-write-pair-share:* A question is posed to students before class. Students think about the question and a response before class. In class, students pair with a member of their group to discuss their responses and write a pair response. Students then share their pair response with the other pair in their group and refine a response for the group. The group shares its response with the whole class. The class critiques, analyzes, and discusses the group responses. I have used this technique in helping students analyze cases and for analyzing hypotheticals. I find that the caliber of the discussion is enhanced by this technique, and all students have an opportunity to learn by both reflection and verbalization.

2. *Three-step interview:* Students interview one another in pairs, alternating roles. They then share in their four-member learning team the information or insights gleaned from the paired interviews. While I have used this as a team-builder, I have also used it to allow students to share ideas, hypotheses, or reactions to the assigned materials.

3. *Numbered heads together:* Members of the learning team count off 1, 2, 3, and 4. I pose a question that involves some higher-order thinking skills. The students discuss the question, making certain that everyone knows the answer or the arguments. I call a specific number and the designated team members respond as group spokespersons.

- *Do any necessary teaching.* I package the cooperative learning strategies between other teaching methods. Consequently, I usually do a mini-lecture to explain concepts important to the exercise.

- *Explain to the class the academic task and the criteria for success.* My criteria for success are that everyone comes prepared to the group and that everyone participates in the group.

- *Start the groups.* I place my objectives, instructions, and time limits on the blackboard. If the activity is a short assignment — three to five minutes — I stay at the podium. If the activity is a longer one — fifteen to twenty minutes — I leave the room for four to five minutes to give the groups the opportunity to get started. When I return, I circulate among the groups to monitor group effectiveness, provide task assistance, or cooperative skills assistance.

- *Provide closure to the task.* I have the class reunite. I have some of the groups report. I start a discussion and get reactions to the reports.

- *Provide closure to small group activity.* The first several times that I use a cooperative learning technique, I

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Cooperative learning

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ask the students to write down one or two things their group did well and one thing their group could improve on next time.

- *Submitted by Vernellia R. Randall, University of Dayton School of Law*
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The most challenging pedagogical task in teaching classes with enrollment in excess of seventy-five is getting everyone motivated to participate in the discussions.

I have found that only about ten or fifteen students normally participate in the discussions in large classes. The rest of the students sit back and let the small cadre of students do the work for them. The problem is that most of the class remains passive, while only a small handful of students joins me in the discussions.

I wanted to turn this around; I wanted to be more passive and I wanted the entire class (not just the usual discussion leaders) to be more active. Here is my idea:

On the first day of class, I break the class into groups of three (e.g., in a class of ninety students, there will be thirty small groups). I tell these groups they are to work together throughout the semester. Each time the class meets, a different person in the small group acts as a reporter or spokesperson for the group.

From time to time, I will ask the groups to work on problems, hypotheticals, and doctrinal issues that come up in our large class discussions. For example, I ask the groups to work on problems like the following: "The defendant in this case is arguing that Case X applies to the instant case. Give me three arguments the plaintiff would likely make in distinguishing Case X from the instant case. You have three minutes to come up with the three arguments. The spokesperson will report the results of your group output to the class. Okay, start!"

There will then be thirty small group discussions taking place. The entire classroom is buzzing with discussion. At this point, I am watching the time, taking a break, and collecting my thoughts for the next topic of discussion. At the end of the *three* minutes (I am very strict about the time), I call the class back to attention and ask for hands of spokespersons. Everyone seems interested in learning what the various groups have come up with.

I have used small group exercises in both upper-level and first-year classes in this way.

- *Submitted by Gary Minda, Brooklyn Law School*
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The cooperative learning technique I have used for the past few years is to divide a large class into groups with five or six students in each group. We break into groups as needed to examine concepts that have created difficulties for students and to consider problems and hypotheticals.

The members of each group are chosen at random. I try

to designate the groups by the second class meeting. The group members must sit in designated seats, clustered around the other group members.

Through this method, I hope to help achieve several goals. I believe that this technique will aid students' understanding of the material for several reasons: the opportunity to listen to their colleagues' discussion of the material (sometimes a student's explanation of a difficult issue is more comprehensible than mine); the opportunity to ask what a student might perceive as a "dumb question" (no matter how often I stress that questions are desirable, some students will be more comfortable asking them to a small group rather than the teacher); and the opportunity to advocate one's viewpoint and test it in the group.

This method also gives each student a chance to be part of the discussion. I hope that grouping students will help them listen more closely to the opinions of their classmates. Some students believe that the only important thoughts come out of the teacher's mouth. With the group, they are given the opportunity to consider the views of each member in a setting where I do not contribute to the discussion. Since the groups are diverse, I believe that the members will at least hear, and optimally consider, viewpoints that they may not have considered previously.

- *Submitted by Rick Nowka, University of Louisville School of Law*
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The Bluebook can be boring. Discovering that my legal writing class had not a clue about Bluebook form and fearing the tedium of a conventional approach, I used the following one-hour lesson to teach the basics. It worked. Students were engaged throughout the lesson and (to my surprise) complimented me on it afterwards.

I asked each student to bring a copy of the Bluebook to class and passed out a problem set (eight problems) at the beginning of class. I allowed students thirty minutes to work individually on the problem set. I then divided the class into eight groups of three and asked the members of each group to spend twenty minutes coming to consensus on their answers. Finally, I asked each group to report one answer to the class as a whole for discussion. I allowed ten minutes for this portion of the lesson.

In the discussion, I asked whether the reported answer was correct and why, requiring the participant to cite to the appropriate provision in the Bluebook and inviting disagreement from other students. In all cases, someone had the correct answer with an appropriate citation supporting that answer.

Result: The class members taught each other the Bluebook and enjoyed doing so.

- *Submitted by Theodore Seto, Loyola Law School, Los Angeles*

Attacking Internet information 'overload'

By Larry Donahue

The Internet is a powerful way for law students, faculty, and practitioners to communicate with their peers, others interested in particular legal areas, and the legal community at large. Dozens of discussion lists link law students, faculty, and practitioners.

Typically, several hundred people subscribe to a particular list. They are great sources of information, but their volume prevents anyone from participating in more than a few lists. Also, many people don't participate simply because they don't know about the lists, or because they don't know how to access them.

The Chicago-Kent College of Law and Villanova University School of Law have created the Legal Domain Network to attack these problems in three ways:

- *Signal-to-noise ratios:* A typical discussion may involve many postings, but only a small measure of information. The Legal Domain Network attempts to solve this problem by distilling the Internet community at large to a select group concentrating on the legal community. Discussions can take place without intrusions by people who aren't likely to provide useful information.

- *E-mail overflow:* Currently, the legal community

primarily uses "listservers" to hold discussions over the Internet. Participants receive posts in e-mailboxes, along with their personal mail. They cannot process this intermingled mail quickly, and this discourages them from participating in discussions. The Legal Domain Network attacks this problem by employing Usenet technology, which separates the discussions from regular e-mail and allows users to enter into discussions selectively. The technology also permits users to participate only in discussions that interest them.

- *Finding information:* The undocumented nature of the Internet makes searching much more difficult than with commercial legal research resources. The Legal Domain Network solves this problem by offering a central kiosk, through which users may guide their legal research. A simple-to-use interface is being developed to provide a backbone for all legal information on the Internet.

For information on how to become connected to the Legal Domain Network, leave a message at:
legaldom@ming.law.vill.edu

Larry Donahue is a research fellow and UNIX/Internet consultant and advisor at the Illinois Institute of Technology, Chicago-Kent College of Law.

Institute funds four grant projects for 1994-95

Continuing the grant program it began in 1991, the Institute for Law School Teaching selected four projects to fund during the 1994-95 academic year. The award amounts ranged from \$340 to \$5,000. The grants were:

- *A Comparative Study of Lawyer Satisfaction With and Preparation For the Profession Based on Law School Ethics and Skills Teaching Curricula*

Following the fisher's advice to "ask the fish if you want to know what bait to use," James Moliterno of the Marshall-Wythe School of Law at the College of William and Mary will survey graduates of several law schools to determine their satisfaction with and preparation for the legal profession. This survey will assess the effects of William and Mary's comprehensive skills and ethics program.

- *What We Talk About When We Talk About War*

Just as students need hands-on, practical experience in domestic law, they need similar experience in international law, according to Barbara Stark of the University of Tennessee College of Law. Professor Stark will explore the possibilities for experiential, interactive teaching in a context where actual clinical opportunities are almost nonexistent. Her article will explain how hands-on, practical experience can be achieved in teaching international law on the use of force ("without expensive and dangerous field trips").

- *Using Alternative Learning Techniques in Legal Education*

Much law school teaching rests upon — and is limited by — the assumption that law students learn in similar ways. This assumption fails to recognize that learning is a highly autonomous, individual process. To enhance the efficacy of instruction, according to Steven Friedland of Nova Law Center, legal education should adopt a variety of learning models. In an article discussing various learning models, Professor Friedland will develop and apply cognitive learning tools such as concept mapping, interactive learning, and skill drills to legal education. He will offer techniques and exercises developed to be particularly adaptable to first-year courses.

- *A Primer for Assessment in American Law Schools*

With one notable exception, American higher education is undergoing an assessment movement centered around the identification and evaluation of institutional missions and outcomes. The exception is found with American law schools, where this process for improving student learning and enhancing institutional effectiveness is almost nonexistent. Gregory Munro of the University of Montana School of Law will write an article to be used as a blueprint by law schools interested in implementing a comprehensive assessment program. It will set forth the structure for formulating missions, outcomes, and programs of assessment for the twenty-first century.

Ways to get your students to talk in class

Many participants at the Institute's 1994 conference shared ideas for ways to stimulate classroom discussions. Here are some ideas that you can use in your classroom:

I use two techniques for getting students interested in assigned reading. First, I begin a class or a case with a question designed to elicit from students an aspect of the reading that they find interesting — and particularly to circumvent the tendency of students to begin by reciting the facts. Examples:

- Say something interesting about this case.
- What makes this case interesting?
- What makes this case close?
- What makes this case worth studying?
- What makes this case wrong?
- What is the weakest aspect of the opinion(s) in this case?

Second, I assign students the role of counsel for one party to a case and ask them to discuss the case (or issue) on their clients' behalf. In the process, I pit student against student more often, intervening less often.

- *Submitted by Michael Kelly, University of San Diego School of Law*
-

To spark discussion about the function of law in society, several St. Mary's University School of Law teachers distributed two hypotheses to first-year students midway through their second semester:

- Law is morally and politically neutral, and it provides an impartial method and forum for resolving disputes within our society.
- Law in our society is designed to preserve and protect the position and influence of those in power.

The project was part of a cooperative effort among four first-year professors (Amy Kastely, David Dittfurth, Doug Haddock, and Jeff Pokorak). Three of the four professors gave up one hour of class time for the project (the fourth agreed to serve as moderator).

The students were asked to divide themselves into groups of five or six, seeking to affiliate with like-minded colleagues. The formation of groups took place outside of class time. A few days after the groups were formed, one of the participating professors gave the student groups her scheduled class time to discuss the hypotheses. Each group chose one or two spokespersons.

About a week later, two of the other participating professors canceled their classes so that a two-hour discussion session could be scheduled. The spokesperson(s)

for each student group were given the floor for five to eight minutes (time limits were strictly adhered to) to present the views of the respective groups. This consumed about two-thirds of the available time, and the remaining time was devoted to open discussion.

I was not directly involved in this project, but I had the pleasure of sitting in on the discussion. I have never been more impressed with the intelligence and thoughtfulness of a group of law students. I saw a side of the students I had never seen before. They showed remarkable levels of passion for their positions and sophistication about law and its function. Their use of specific examples from their substantive courses demonstrated far more appreciation for subtlety and meaning than I am accustomed to seeing. The students showed respect for each other and tolerance for each other's ideas.

- *Submitted by Mark Cochran, St. Mary's University School of Law*
-

The main purpose of law teaching, as I see it, is to get students actively involved in the learning process. One method that has worked in my classes is what I call the leading-questions discussion period.

It works like this:

One or two weeks before the discussion of a particular topic (arbitration as an ADR method, for example) I distribute the assignment sheet for the topic, containing the readings and a list of leading questions.

The questions serve as guidelines to the main themes in the readings, so that a student preparing for class can pre-test his or her knowledge. Examples are: What are the advantages of arbitration over litigation? Over other ADR methods? What are its disadvantages in contrast to mediation?

When the topic comes up for discussion in class, I distribute the questions among teams of students (three or four students to each team). Usually each team is given 10 to 15 minutes to discuss the particular questions assigned to it.

After this discussion period, a reporter from each team delivers and explains the answer agreed upon by its members. Time is also allowed for dissenting opinions.

I often add some prodding questions to each team's presentation and, after all the answers are in, I will interrelate the diverse answers and expand, as necessary.

The result: lots of lively group discussions among the students and real interest and involvement in the learning process. I also believe they are better prepared for class.

- *Submitted by Eulalio Torres, Interamerican University of Puerto Rico School of Law*

Working without a net to improve your classes

By Michael L. Closen

Here's a teaching tip that may improve your classroom performance and impress your students: Use no notes (not even the assigned coursebook) in class sessions *for the entire semester*.

This simple idea offers several advantages for the professor who walks into class empty-handed for some forty-plus hours of classes in a semester:

- *It gives you freedom.*

You're not anchored to the podium or table where your lecture notes or coursebook would be located. You can move about and use the blackboard more freely. You can speak more extemporaneously as you are forced away from both exact words and established organization fixed by your notes or coursebook. You can have more eye contact.

• *You'll impress students.* Students observe virtually every other law professor carry substantial materials (notes or coursebook) into their classes and follow those materials religiously, and they will notice that you're not saddled with those materials. They are impressed that you have such a mastery of the material that you can teach an entire course without notes, or they appreciate that you prepare so diligently that you can do so.

• *You'll put students at ease.* The idea here is that if the professor can teach the course without notes or a casebook, then students should certainly be able to comprehend it with the help of the coursebook, classroom lectures, and study aids. Students are more likely to view your relationship with them as non-adversarial if they see that the subject is manageable. This approach does not mean the course will be less rigorous, because the professor still must demand

thorough preparation and full understanding from the students.

• *You'll be forced to go out among the students.* One of the big advantages of this teaching trick is that it gets me away from the podium and out into the classroom, because there are regular occasions when I need to use the exact words of a statute, a case, or whatever. When

this happens, I just go out into the class and read from the coursebook with one of the students over his or her shoulder. Often, I stay there and continue a dialogue with the class from that location. Reducing the distance between the prof and the students seems to be effective. Students tend to

warm up to you, and they seem less intimidated.

• *You'll enhance your classroom preparation.* Although we all prepare diligently for all of our classes, I think you must be even better prepared to guide the class without coursebook or notes at your side. Incidentally, if I have a case or statutory citation, or any other item of detail, that does not appear in the assigned reading and that I want to share with the students, I simply scribble it on a scrap of paper, put it in my pocket before class, and retrieve it at the appropriate moment in the lecture. Again, students are impressed; they see that I have prepared for that particular class.

If the professor can teach the course without notes or a casebook, then students should certainly be able to comprehend it with the help of the coursebook, classroom lectures, and study aids.

Michael L. Closen is a professor of law at John Marshall Law School. For more information, contact him at John Marshall Law School, 315 South Plymouth Court, Chicago, IL 60604, (312) 427-2737, FAX (312) 427-8307.

Your first class: Some ideas for breaking the ice

Are you interested in setting the right tone for your course during the first class meeting? Participants at the Institute's 1994 conference offered these ideas:

This is a simple technique that has worked for me to break the ice at the beginning of my negotiations course.

During the first class, I ask students to give their names, what year they are in, and three things about themselves that other students don't know. However, one of the three things must be a lie. The other students have to guess which is the lie and why they think so, based on the behavior of the student giving the information, the implausibility, etc.

This icebreaker can lead to some fruitful discussions about lying in negotiations.

- *Submitted by Theresa J. Player, University of San Diego School of Law*

One way to get students to know each other quickly is to divide them into pairs and have them interview each other for a few minutes.

Then, have the students introduce their interview partners to the rest of the class. This is a good way to build rapport in a class and to get the students used to working with each other.

- *Submitted anonymously*

Curriculum should focus on problem-solving skills

By Paul Ferber

Law school curricula need a radical rethinking. Traditional legal education lacks a coherent underlying set of principles.

Problem-solving, which is the core of lawyering, provides that set of principles. It includes all the other basic skills, and ought to be the basis of the curriculum. Problem-solving involves five steps:

- identifying and diagnosing the problem;
- generating alternative solutions and strategies;
- developing a plan of action;
- implementing the plan of action; and
- keeping the planning process open to new data and ideas.

Inherent in these steps are the following skills: legal analysis and reasoning; legal research; factual investigation; communication; counseling; negotiation; litigation and alternate dispute resolution; organization and management of legal work; and recognition and resolution of ethical dilemmas.

The entire professional skills and professionalization curriculum should be built around students' learning to become increasingly adept at the five stages of problem-solving to provide the base for future learning, and to help students retain what they learn.

The following is just one of an infinite possible number of first-year curriculum configurations. The same structure of integration of substantive law and policy with professional skills and professionalism issues in a transactional setting can be extended to the rest of the curriculum, too.

1. A contracts course focusing on transaction planning, document drafting, negotiation, and one or more ethical issues, such as taking a piece of a client's deal as part of the fee.
2. A torts course focusing on social policy as a generator of development of the law, law and economics, interviewing, drafting a settlement agreement and release, and one or more ethical issues.
3. A real property course focusing on legal history, drafting transaction documents, conducting a title search, and one or more ethical issues, such as confidentiality.
4. A criminal law course focusing on jurisprudence (exploring the nature of law, justice, and the like), counseling, persuasive writing (a motion to quash seizure of evidence), and one or more ethical issues, such as the limits on the duty of zealous representation.
5. A civil procedure course focusing on theories of dispute resolution (including ADR systems), drafting pleadings and motions, and one or more ethical issues, such as other aspects of limits on the duty of zealous representation.

Paul S. Ferber is a professor of law and director of the General Practice Program at Vermont Law School. For more information, contact him at Vermont Law School, P.O. Box 96, Chelsea Street, South Royalton, VT 05068, (802) 763-8303, FAX (802) 763-7159.

Institute schedules second annual conference in July

The Institute will hold its second annual summer conference on law teaching on July 14 and 15, 1995, in Spokane, Washington.

The two-day conference will feature six workshops. Participants will be able to choose four of the workshops to attend. Workshop presenters will include law school professors and professional educators. Likely topics for the workshops include:

- Effective Discussion Techniques
- Professional Skills in the Classroom
- Constructing Examinations
- Course and Class Planning
- Cooperative Learning
- Feedback on Your Teaching Videos

Participants will meet in small groups to share ideas about teaching and to address common teaching problems. In addition, participants will have time to meet informally to discuss law teaching with other motivated, excellent teachers.

July is a great time of year in the Northwest. Participants will have a chance to vacation in the area before and after the conference. In and around Spokane are beautiful parks, many lakes, and the best public golf in North America. Within a half-day drive of Spokane are the City of Seattle, the Columbia River Gorge, Hells Canyon, Glacier National Park, and the Canadian Rockies.

The number of participants is limited to 50, so that each workshop and idea-sharing session will be a small-group experience. Look for more details in the spring edition of *The Law Teacher*.

'A Day in the Life of . . . Law School Teaching'

The Institute is proud to sponsor a video that is designed to stimulate discussion among faculty members about law teaching methods. The program, entitled "A Day in the Life of . . . Law School Teaching," was produced by Professor Larry Dubin of the Detroit Mercy School of Law. The Institute provided funding for the production.

The 35-minute tape has five segments. For each segment, Professor Dubin interviewed the teacher before class, taped a class, and then interviewed students. Each segment allows the viewer to hear the teacher explain the teaching method, to see portions of a class, and to learn from students the impact of the teaching method on their thoughts, behavior, and feelings.

The courses represented are Contracts, First Amendment, Criminal Law, Negotiations, and Evidence.

Copies of the tape are available at a cost of \$20. Contact Paula Prather at (509) 328-4220 ext. 3740 to order.

Scrambled sentences: A puzzle worth solving

By Brannon Heath

Midway through the first semester of Legal Methods, my students seemed overwhelmed. I was demanding corrections on a closed universe memo and a start on the open memo; other professors had accelerated the pace of classes to make up for holidays; exams loomed in students' peripheral vision.

We needed a respite. We had worked earlier in the semester on a "Lisa-Lenny" annulment problem, which I had used to teach case briefing, synthesis, and client counseling. Now I called on the "Lisa-Lenny" problem again. I wrote a 12-sentence paragraph. Then I scrambled the sentences, putting a number 1 through 12 next to each sentence and leaving space between the sentences. I then copied these scrambled sentences for each member of the class. I also took four copies and cut them apart, separating each sentence. I put each cut-up copy in an envelope labeled Group 1, 2, 3, or 4.

When students arrived, I divided them into four groups and explained that they were going to solve a puzzle. I reminded them of Lisa and Lenny. After giving each student a copy of the scrambled sentences, I gave one envelope to each group. The assignment was to take the cut-up sentences and put them in order. As a further incentive, I told the students that if their group succeeded in laying out the cut-up sentences in the correct order before class ended, that group could leave.

As I moved among the groups, my modest expectations grew. One group reviewed the substantive material, trying to find the elements necessary for an annulment. Another group searched for the topic sentence of the paragraph. Yet another argued which sentences comprised the middle of the paragraph. I critiqued as I moved from group to group. If, for example, two sentences were in the correct order or the topic sentence and conclusion were correct, I would tell the group. If a group foundered or meandered, I gave support or directions.

With about seven minutes left, one group solved the puzzle. With gleeful smiles the group members swung their backpacks onto their shoulders and departed. The other groups continued to shift the sentences, calling me to check whether they had solved the puzzle. When class ended, the other groups continued to work until finally they had to go to their next class.

"Scrambled sentences" was a big hit. It provided a respite, and much more: a review of substantive material and the opportunity for heated discussions on paragraph organization, logic, flow, transitions. It even lingered; in the next class, students argued that the order I had created in the puzzle was flawed.

I used the exercise again the next semester, but for a different purpose. I used substantive material from a brief

we were writing. This time, I numbered the sentences in their correct order and cut them apart. What students received, therefore, was a copied sheet with a paragraph "correctly" ordered and numbered and a cut-up sheet for the groups to reassemble. Only one small group concluded early that the order was correct. Other students thought the order might be correct, but did not argue their convictions or yielded to

assurances by more vocal classmates that I could not possibly have given them the correct order.

Part of what I had hoped to demonstrate this second time was that while collaboration could be very helpful, students must ultimately make their own decisions and must believe in

their own theories and research. It was a gamble. I knew some students might be angry and feel "tricked," but I was bothered by the wholesale acceptance of theories expounded by some of the more boisterous members of my class. Although a few students muttered, others felt validated. Because the material provided insights into the brief required at the end of the semester, I believe all students forgave me for "tricking" them.

This "scrambled sentences" exercise could be helpful in teaching thesis paragraphs, rule proof, elements analysis, and exam answers. Or perhaps it could simply provide that needed respite for shell-shocked students.

The exercise provided a respite, and much more: a review of substantive material and the opportunity for heated discussions on paragraph organization, logic, flow, transitions.

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