



GONZAGA UNIVERSITY

THE LAW TEACHER

Institute for Law School Teaching

Spring 1995

Kinetic classroom

By Susan B. Apel

One student, the driver, is riding piggy-backed on another, who is a motorcycle. Careening around the classroom, they unfortunately collide with another motorcycle. Both drivers fall to the floor, while a fifth student, a police officer, gestures animatedly to the drivers.

One motorcycle continues to roll and eventually crashes to a stop in a corner. Several other students, bystanders all, shake their heads. One moves to drape an arm around a driver, while the others compete to tell the police officer who is at fault and why.

John Rassias, professor of French at Dartmouth College, leaps from his seat in the front row, and assuming the role of Fellini in this fantastical sequence, shouts, "Cut!" It is early in the morning, and it is a typical beginning of French class.

I became intimately familiar with the Rassias method when I enrolled in his French course. His teaching techniques are unique, and have been captured on film by television shows like *Good Morning America* (which filmed the above scenario) and *60 Minutes*.

As I experienced the Rassias method, I became particularly intrigued with the use of physical movement in the classroom. Like Professor Rassias, I noticed how I, too, move around, gesture, use my hands while I speak to my students. The difference in our classrooms was that in his, students moved as well. The picture of my own classroom started to appear out of balance. Why was I in almost constant motion, while the students sat, and continued to sit, and sit some more for over an hour, their physical movements limited to a raised hand and moving lips?

Sitting, I have come to believe, and more importantly, *having the expectation that one will not be called upon to do anything else, made it possible for students to disengage more easily.* There is a quietness, a security of physical attachment to a desk that allows one's eyes to wander to the window. Most obvious is that a sitting student can sleep, physically or at least mentally; a moving student, or a *potentially moving student*, cannot.

I do not recommend that one's class be turned into an aerobics course. Too much, and non-purposeful, movement might cause its own set of problems. But now I try to structure interaction in the classroom that moves beyond the

verbal. Previously, I have made use of buzz groups, breaking larger classes into smaller groups to discuss a particular point. Now I include an activity. For example, the last time I used buzz groups, I asked them to present their conclusions on a flip chart, which required them to physically gather around the paper and write.

Other examples are perhaps more novel. In past years, I have always begun my Family Law class by having students reflect, through a class discussion, on the meaning of family. Last year, I divided students into small groups, and asked each group to come to a consensus on one feature of the definition or function of

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family. Instead of orally reporting their discussion, they put together a short skit (one minute or less) exhibiting the characteristic upon which they had decided. As an example, one group of students stood up and demonstrated that they shared the same address. Another group explained pooled resources as a feature of family life by tossing their money into a pile and then withdrawing certain sums for various group expenses. Another showed the concept of nepotism by inventing a skit in which one individual was pressured by other family members to hire a relative. My favorite was a group of two whose presentation involved one standing up and nagging the other.

I've illustrated the need for the Uniform Child Custody Jurisdiction Act by having students physically grab and abduct baby dolls or stuffed animals from one another, running to various corners of the room that represented different jurisdictions. In another exercise, ten students role-played various pieces of marital property. They stood in the front of the room while other students physically moved them into varying configurations to demonstrate equal and

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From the director

Talented colleagues deliver valuable lessons

By Gerald Hess

Many resources are available to help us become better teachers. I recently rediscovered a valuable and accessible one — my colleagues.

During the last few months, I observed several colleagues in various teaching situations. I learned lessons from each of them; here are three examples:

Kay Lundwall taught Trusts to 40 upper-level students. During this fast-paced, 80-minute class, Kay used many different teaching techniques. She began with a role play in which the students explored issues that arose in the reading. She interspersed large-group discussion and mini-lectures on the applicable law. Throughout the class, Kay used the overhead projector to present hypotheticals, analyze statutes, and memorialize student comments. At the end of the class, the students worked in small groups. Because Kay accommodated their learning styles, these third-year students were engaged throughout the class.

David DeWolf taught Torts to 100 first-semester, first-year students. Dave was returning the students' first law school exam, taken in October. After circulating handouts with a model answer and a grading checklist, Dave spent most of the class thinking out loud while scoring an exam

in front of the students on an overhead projector. During the demonstration and discussion, I saw lights go on for students regarding legal analysis, the content of Torts, and exam-taking. The demonstration was not for the faint of heart, but a lot of learning took place in that class.

George Critchlow conducted a case review with one of his students in the General

Public Practice Clinic. For a half-hour, George and the student engaged in the most effective Socratic dialogue I have ever observed. They explored substantive and procedural law, tactics, problem solving, ethics, and the role of a lawyer. At the end of the review, it was clear that the student not only recognized George's high expectations but also had adopted those same expectations for himself.

One way for us to become better teachers is to spend time in our colleagues' classrooms. My observations not only helped me with my teaching, but they also increased my appreciation for the talented people I work with.

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

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Kinetic classroom

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equitable distributions.

Some of this is, of course, flash, a break from the ordinary that keeps students interested. But I think it is more than that. Watching movement itself is stimulating; moving oneself is even more so. However, even if only one or two students are moving in the room, it presents the possibility of movement to the remainder. Simply put, if one feels that one may be called upon momentarily to get up and do something, one's mental faculties cannot afford to slump. Additionally, movement seems to have created better memory. When I try to weave things together by referring to past classes, some students remember what one or the other said about whether it is equitable to split the shares of stock 50/50 or award them all to one party. More students remember the specter of a student, role-playing the stock, standing in front of the room while two of the students, one on each side in the roles as lawyers, make the "stock" the object in a physical tug-of-war.

For the unconvinced, a simple and low-risk experiment can begin by monitoring one's own movement in the classroom and then purposefully doing something else. Generally, I pace back and forth across the front of the room. Should I decide to move differently — for example, stroll down the center aisle — the student reaction is subtle but definitely detectable. Heads move in a different direction; depending on where they sit, students perceive me moving

closer or farther away from them than is usual. Their postures change. Something unexpected has happened, which means that something else unexpected could happen, for which they don't want to be caught unaware.

A variation of this experiment is one that most teachers have already used. If your students normally sit while they speak in class, ask one to stand up, or to move and stand in the front of the room while speaking. Eyes turn to catch the movement and ears and minds open.

My teaching has been a torrent of words, sometimes written on handouts or on the blackboard, more often simply auditory, my own voice speaking to students as they listen and speak back to me, and sometimes to each other. I've experimented with many different forms of verbal communication, from free-flowing discussions to buzz groups to dyads and circles, all of which have contributed to my classrooms. Movement, as its own form of communication, or as an adjunct to words, or as a momentary respite from the speaking/listening barrage, offers unexplored but promising possibilities.

Susan B. Apel is a professor of law and assistant director of the General Practice Program at Vermont Law School. For more information, contact her there at P.O. Box 96, Chelsea Street, South Royalton, VT 05068, (802) 763-8303, FAX (802) 763-7159.

Contractual conundrum: 2B or not 2B

By J. Michael Echevarria

The Socratic method may be like democracy: It simply doesn't work, but no one can think of a better system.

It doesn't work because students are uncomfortable, intimidated, and, ultimately, bored. There probably isn't a better system because, in the end, much of what an attorney (especially a trial attorney) winds up doing is reading, analyzing, and making arguments based on the case law.

So how do you keep students interested and at the same time not intimidated? Spinning a memorable and humorous yarn has always worked for me.

I teach Contracts and treat every topic area as an

opportunity to tell a funny (and I hope a memorable) story through the use of a series of connected hypotheticals. The protagonists in the hypotheticals usually have unique character quirks that are appropriate for the topic of discussion. For example, in discussing indefiniteness, I use Ross Perot and his on-again, off-again 1992 presidential campaign. The pre-existing duty rule and duress occasion a colorful tale involving Don Vito Corleone's attempts to secure a Hollywood contract for Johnny Valentine. Alice and the White Rabbit discuss the meaning of words and contract interpretation. Dorothy and Toto go down the yellow brick road

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Ten reasons to start Contracts with 'hairy hand'

By N.O. Stockmeyer, Jr.

I began teaching Contracts in 1977 out of the third edition of Fuller & Eisenberg's BASIC CONTRACT LAW, which led off with remedies and the case of *Hawkins v. McGee*, 146 A. 641 (N.H. 1929). Later I tried beginning with offer and acceptance, and with consideration, but always returned to what I enjoy most: starting the first class with "the Case of the Hairy Hand." Here are my top-ten reasons:

10. The opinion

immediately demonstrates to beginning law students the need for a law dictionary. The very first paragraph is largely meaningless without an understanding of such terms as "assumpsit," "writ," "count," "nonsuit," and "exception."

Students need to know early on that the first-semester course offerings do not include Vocabulary 101. They must master the terminology on their own.

9. **The opinion shows how judges sometimes load their opinions with empty overstatements**, such as "Clearly this and other testimony would not justify . . ." and "It seems obvious that proof would establish . . ." A close examination of the facts leads students to the realization that the matters under review were perhaps not so clear or obvious after all.

8. **The opinion articulates and demonstrates the process of analysis courts employ when authority for a specific rule is lacking.** The appellate court tests the correctness of the trial judge's jury instructions by the use of general principles ("Nothing is so practical as theory," said Holmes) and by analogy to other classes of cases (but was the opinion's analogy to a chattel warranty apt?).

7. **The opinion allows an early exploration of some of the distinctions between tort (medical malpractice) and contract (promise of 100% success) in a context readily understood by beginning students.**

6. **The issues in the opinion illustrate two of the central themes in contract law:** the objective theory of

contract formation (whose understanding controls?) and the expectation objective of contract remedies (in contrast to the tort objective of restoration).

5. **The opinion is an excellent introduction to remedies**, which for several reasons is a good place to start the study of Contracts. It focuses on the difference between tort and contract damages, and between the expectation and reliance measures.

4. **The opinion offers an opportunity to illustrate that general principles are easier to state than to apply.** How much is a perfect hand worth? And how much less is a scarred and hairy hand worth?

3. Three words: *The Paper*

Chase. Most students will have read the book or rented the movie. They expect their first class to begin with a study of the hairy hand case. Disappoint them the first day and they may begin to question their choice of law schools.

2. **The opinion has more pathos than the commercial disputes that will follow**, thus helping start Contracts off on an equal footing with Criminal Law and Torts in human-interest value. (If you follow with *Peevyhouse v. Garland Coal*, 382 P.2d 109 (Okla. 1962) and *Sullivan v. O'Connor*, 296 N.E.2d 183 (Mass. 1973), you can keep abreast for the entire first week!)

1. **The case has a rich subsequent history** that can be explored as time permits. See *McGee v. U.S. Fidelity & Guaranty*, 53 F.2d 953 (1st Cir. 1931), in which Dr. McGee loses a suit against his malpractice insurer, and Jorie Roberts, *Hawkins Case: A Hair-Raising Experience*, Harv. L. Rec., March 17, 1978 (offering a revealing look at the sad later life and death of George Hawkins).

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2B or not 2B

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performing altruistic acts and eliciting a series of promises based on moral obligations. I discuss impossibility in the context of *Star Trek* (dying Tribbles and the Uniform Commercial Code) and *West Side Story* (impossible love under the common law).

Sometimes I have students participate in skits: Abbot and Costello's "who's on first" routine (with modifications) is a perfect vehicle to discuss mutual mistake. For promissory estoppel, I have the class act out a plaintiff's direct examination based on a case in the text. And for UCC damages, the students create the hypotheticals in class. I grade the hypotheticals on a scale of 1 to 10 based on creativity and general weirdness.

A good example of this technique is my class on mutuality of obligation. As everyone recalls from law school (sigh), ultimately the mutuality problem is one of discretion. If a promisor is vested with too much discretion with respect to the choice to perform, his or her promise is said to be fatally illusory. Since the discretion problem is obviously heightened when the promisor is indecisive, the protagonist of choice is Hamlet. The full story takes about ninety minutes to perform. What follows is my truncated version:

After Hamlet returns from a visit with the ghost of dear old dad, he vows revenge on King Claudius. Horatio offers to pay Hamlet 1,000 gold pieces if he promises not to kill the king. (This is unenforceable because of the pre-existing legal duty.) When Hamlet wavers, Horatio offers to pay him if he promises not to kill the king *or* stop dating the king's counselor's daughter, Ophelia. (The disjunctive nature of the promise makes it, once again, unenforceable.)

When the king becomes worried about Hamlet's mental state, he hires the investigative firm of Rosencrantz & Guildenstern as exclusive spies to the crown. But the contract does not spell out their obligations. (Are they obligated to do anything?) After Hamlet foils R&G, he hires the Players to perform *The Death of Gonzago* in an attempt to elicit the king's guilty response. But the Players threaten to go on strike until Horatio offers them more money. (Does their ultimate performance solve the pre-existing duty problem? No.)

Finally, Ophelia's brother, Laertes, challenges Hamlet to a duel. Being a Shakespearean character, Laertes decides to bring irony to the plot. He decides that Hamlet will be hoisted on his own petard: Laertes will sell Hamlet the sword that ultimately leads to Hamlet's demise. The parties enter into a requirements contract. Or is it? Paragraph 2A seems to state that it is a contract for a fixed quantity, yet Paragraph 2B seems to state that it is a contract whereby quantity is measured by Hamlet's sword requirements for the next year (two minor skirmishes, four major battles, and a holy crusade). Hamlet is indecisive — he does not want to be committed to any fixed quantity. This is how he frames the issue:

Horatio offers to pay Hamlet 1,000 gold pieces if he promises not to kill the king. (This is unenforceable because of the pre-existing legal duty.)

2B or not 2B: that is the provision/ Whether 'tis nobler in the mind to suffer the slings and arrows of outrageous requirements or to take up objections to a sea of provisions and by opposing, end them/ To default, to breach/ No more and by breach to say we end the heartache and 1,000 natural requirements the contract is heir to/ 'Tis a default to be devoutly wish'd/

To default, to breach/ To breach: perchance to perform/ Ay, there's the rub, for in the performance of contract what mutuality of obligation may come when we have executed this mortal pact?

When I start this soliloquy, there are groans from the audience. By the time I finish, there is a rousing applause. Does my method work? I bumped into a student a few years ago who received an "A" in the fall semester. He did so because (according to him) he memorized the story of Hamlet (thus piling up points on the consideration issues). He told me he would have gotten an "A+" except that he kept mixing up Claudius with Polonius. Ay, there's the rub.

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Submitting manuscripts

The *Law Teacher* encourages readers to submit brief articles explaining interesting and practical ideas to help law teachers become better classroom teachers. Articles should be 500 to 1,500 words long. The author should describe the idea and tell readers where they can get more information on the topic of the article (from a book, another article, or the author). Footnotes are neither necessary nor desired.

The deadline for articles to be considered for the fall edition of *The Law Teacher* is September 15, 1995.

You may submit articles on paper. If you have composed your manuscript on a word processor, please also include a copy of your article on floppy disk. Submissions through electronic mail also are welcome.

The editors will review all manuscripts; those that are accepted will become the property of the Institute for Law School Teaching.

Manuscripts, comments, and letters should be sent to: The Institute for Law School Teaching, Gonzaga University School of Law, P.O. Box 3528, Spokane, WA 99220-3528; (509) 328-4220 (ext. 3740). The e-mail address is: ilst@gulaw.gonzaga.edu.

Some creative ideas for student evaluation

Participants at the Institute's 1994 summer conference contributed these imaginative ideas for evaluating law students:

Often toward the end of a course I tell students that there may be a policy question on the exam. I then give them a list of six policy questions and tell them that if a policy question appears, it will be one of the six. I also establish

exam preparation rules: no outside research and no discussion of the possible questions except with classmates. I give them written guidance about what I look for in their answers.

This pre-exam list of possible policy questions has several positive results. First, especially for first-year students, exam anxiety seems to be reduced by the ability to think through and plan out answers beforehand. Students can walk into the exam with some idea of what to expect and feeling somewhat prepared and a little in control. Second, my exam preparation rules encourage students to prepare cooperatively rather than competitively, a value which I have as a goal in each of my classes. Third, different styles are accommodated to some extent. Students who are not quick on their feet, but who with time to reflect can do well, have a fairer chance to demonstrate their competence than on a traditional timed exam.

Finally, and most importantly to me, the nature of exam preparation (and thus review and internalization of the course) is lifted from memorizing rules to discussing and evaluating them, thus resulting in a higher level of learning. (I often include in my list of possible questions several which I have no intention of asking but on which I want students to focus as they pull the course together.)

Submitted by Lynn Daggett, Gonzaga University School of Law

Use a video exam to evaluate lawyering skills. The students view a video depicting a lawyer performing one or more oral skills (e.g., interviewing or counseling a client, negotiating with another lawyer, cross-examining a witness, conducting a deposition, etc.) and then analyze and critique in writing what they observed on the monitor. Before viewing the video, students have reviewed file documents to help them understand the context. After the 10- to 15-minute video, but before writing their critiques, the students receive a transcript of the scene.

This assessment technique could be useful in several contexts: a clinical law course, a lawyering skills simulation course, an introductory first-year lawyering process course, or in a bar exam.

Submitted by Larry Grosberg, New York Law School

In my 55- to 60-student classes in Civil Procedure, I give one-question multiple-choice quizzes in our Monday classes. Students know that they will be quizzed on Mondays based upon material that we have covered in the previous week.

Because the quiz consists of a single multiple-choice question, the quiz takes only about five minutes. Afterwards, we discuss the question and answers.

These quizzes serve several purposes. First, they are an

Giving students a list of potential policy questions on your final exam helps to reduce anxiety, encourages cooperation, gives students more time to reflect, and results in a higher level of learning.

incentive for the students to review each week's material on an on-going basis. Students have told me that the quizzes are very helpful in their review process. Second, the quizzes help me connect one week's material with the material that follows. After our discussion of

a quiz, I typically summarize in a few sentences the material that we covered in the prior week and give students a synopsis of how that material relates to what we will cover during the present week. I have found that one of the major problems first-year law students have is making connections between individual cases and segments of material. The discussion that follows Monday morning quizzes gives me a good opportunity to help students make some of those connections.

The discussions that follow the quizzes often are significantly more animated than other class discussions, because students want to know why their answers were wrong or they attempt to convince me that credit should be given for an answer other than the "right" answer for which I was looking. Occasionally I will be convinced to give credit for an answer for which I had not planned to give credit, and I think that seeing me rethink the answers in this fashion may be a good demonstration for the class.

Third, the Monday quizzes give students some low-key feedback on their performance before their final exam. The quiz questions early in the semester are extremely easy. Also, although I give nine two-point questions over the course of the semester, no student can earn more than 14 points. Thus, students can miss one or two questions and still obtain the maximum number of quiz points. Because they can miss two questions without grade penalty, I also don't deal with situations in which students are sick and miss a class for this or other (legitimate or illegitimate) reasons. If I don't get a correct answer from them in a given week, they don't get their two points.

Because most students "max out" on their quiz points and the quizzes typically account for only about 15% of their total grade, the quizzes do not engender the pressures that surround final examinations. The quizzes also make students more comfortable in preparing for and taking final examinations.

I must acknowledge Professor Howard Brill of the University of Arkansas as the source of this idea.

Submitted by Larry Dessem, University of Tennessee

Institute offers second summer conference

The Institute for Law School Teaching will present its second conference on law teaching on July 14 and 15, 1995, at Gonzaga University in Spokane, Washington. The conference will help experienced legal educators become more effective teachers.

During the two-day conference, participants will be able to attend four workshops of their choice and two idea-sharing sessions. Attendance will be limited to 50, to ensure that the workshops and idea-sharing sessions will be small-group experiences. Participants should come away from the conference with both an increased understanding of educational principles and specific teaching techniques that they can implement in courses next fall.

Workshops

The conference will feature six workshops, from which participants may choose to attend four. (See page 7 for a detailed description.) Each workshop will last two hours.

Idea-sharing sessions

Each day of the conference will include an idea-sharing session, during which participants will meet in small groups. In the Friday session, each participant will share a teaching idea or tip with the other group members. In the Saturday session, each participant will raise a teaching problem or dilemma for discussion by the group. Participants should summarize their ideas and dilemmas in writing. The idea and dilemma should be on separate pages, and each summary should be limited to one single-spaced page. The Institute will copy the summaries and include them in the conference materials. The Institute should receive the summaries by June 23.

Registration fee and deadlines

Attendance will be limited to 50. The roster will be filled in the order that the Institute receives the registration form and conference fee (\$415 if postmarked by May 16; \$460 if postmarked after May 16; checks only; payable to Gonzaga University).

Refunds: Attendees must notify the Institute in writing to receive refunds. If notice is received on or before May 16, 1995, \$415 will be refunded; if notice is received between May 17 and June 14, 1995, \$300 will be refunded. No fees

will be refunded if notice is received after June 14, 1995.

Lodging and transportation

Cavanaugh's River Inn — a short walk from the conference center — is offering rooms for attendees at a

reduced rate. To take advantage of the rate, participants must make reservations before June 23, 1995. *Rates:* \$55 for single; \$65 for double or double/double (two beds for two to four people). For reservations, call 1-800-THE-INNS or (509) 326-5577 and mention the Institute for Law School Teaching. Shuttle service from the airport is available. Attendees who make their air reservations through Gonzaga University's on-campus travel agency, Time To Travel (800-525-7185), will receive 5% off the lowest fare available (some restrictions apply).

Meals

Breakfasts and lunches on Friday, July 14, and Saturday, July 15, and dinner on Friday, July 14, are included in the registration fee. The dinner will feature wine-tasting and a Pacific Northwest menu at Arbor Crest Wine Cellars, with a panoramic view of the

Spokane River and surrounding mountains. Because of hazards at the site, minors will not be permitted.

Post-conference whitewater thrills

If you are looking for a day of fun, excitement, and relaxation on Sunday, July 16, sign up for whitewater rafting on the Clark Fork River (two hours east of Spokane). The river features punchy rapids, tall waves, and deep holes. Between the rapids are calm stretches where you may jump in for a swim or enjoy the spectacular scenery and wildlife, including osprey, elk, and — with luck — Harlequin ducks. The ride will take you through Alberton Gorge, with magnificent rock formations and dramatic cliffs rising vertically on both sides of the river. The trip is appropriate for children as young as 8. Rates are \$73 for adults and \$65 for youths. For reservations and information, call River Odysseys West (ROW) at 800-451-6034. The Institute will help rafters arrange transportation from Spokane.

Conference schedule

Friday, July 14, 1995:

- 8:00 a.m. Check-in, continental breakfast
9:00 a.m. Welcome, introductions, overview
9:30 a.m. Workshops:
• *Multiple-Choice Examinations*
• *Effective Discussion Techniques*
• *Lawyering Skills*
11:45 a.m. Lunch
1:15 p.m. *Idea Sharing*
2:15 p.m. Workshops:
• *Cooperative Learning*
• *Planning Effective Legal Teaching*
• *Feedback on Your Teaching*
4:30 p.m. Adjourn
6:30 p.m. Dinner at Arbor Crest Wine Cellars

Saturday, July 15, 1995:

- 8:00 a.m. Continental breakfast
8:45 a.m. Workshops:
(Repeat Friday a.m. workshops)
11:00 a.m. *Teaching Dilemmas*
12:00 noon Lunch
1:15 p.m. Workshops:
(Repeat Friday p.m. workshops)
3:30 p.m. Final thoughts, evaluation
4:00 p.m. Adjourn

Workshops: 'The Science and Art of Law Teaching'

The Institute's second summer conference on "The Science and Art of Law Teaching" will feature six two-hour workshops. Participants will select two workshops to attend each day. Following is a description of the workshops and their discussion leaders:

• **Multiple-Choice Exam Questions.** Steven Friedland, LL.M., J.D., professor at Nova Law Center. Have you ever wondered whether objective test questions, specifically multiple-choice types, are: (a) appropriate for law school examinations; (b) useful in your subject area; (c) feasibly constructed by non-experts; or (d) all of the above? This workshop shows why the multiple-choice question is a useful supplement to the traditional essay examination. Participants will discuss the mechanics and theory of multiple-choice questions, and will create a series of questions.

• **Effective Discussion Techniques (I & II).** Lynn Daggett, Ph.D., J.D., assistant professor at Gonzaga University School of Law. Participants will explore a variety of classroom discussion issues and techniques, including: why bother discussing?; using discussion time effectively; the professor's role in discussion; and alternate discussion techniques. Participants may choose from two sections for this workshop. Section I is for teachers considering using discussion in their classes or just starting to try the discussion technique. Section II is for teachers already using discussion in their classes; it will emphasize alternate discussion techniques and advanced issues.

• **Lawyering Skills.** Lawrence M. Grosberg, J.D., professor and director of the Lawyering Skills Center at New York Law School. This workshop will explore ways in which lawyering skills can be introduced or taught in the classroom. Participants will view videotaped or live demonstrations of examples that might be used in various kinds and sizes of classrooms. The workshop will focus on the desirability of teaching students how to apply the law in context; recognition of the wide array of purposes for

which teachers can use classroom simulations; and the informality, ease, and flexibility of these experiential techniques.

• **Cooperative Learning.** Jim Cooper, Ph.D., professor of graduate education and director of the Network for Cooperative Learning in Higher Education at California State University (Dominguez Hills). Student-student and student-teacher interactions are the best predictors of many attitudinal and cognitive outcomes in higher education, according to recent research. These results suggest substantial increases in the amount of class time spent in cooperative learning groups. This workshop will focus on specific cooperative learning techniques designed to improve higher-order thinking skills, and will focus on the presentation of specific cooperative learning techniques.

• **Planning Effective Legal Teaching.** Vernellia Randall, J.D., assistant professor at University of Dayton School of Law. Teaching is not just telling something to a group of learners, explaining some concept, examining a case, or questioning students with the Socratic method. Rather, teaching is *helping all students learn*. While teaching is an experimental activity and there is no correct way to teach, an effective teacher sets up the conditions for learning and assumes part of the responsibility when students fail to learn. This workshop will present a model for course planning that provides a way to approach preparing effective courses.

• **Feedback on Your Teaching.** Kathryn Landreth, J.D., United States Attorney, District of Nevada. Each participant will bring a four- to five-minute videotape of herself or himself engaged in teaching. Each participant will briefly introduce the video and explain the types of feedback the participant wants to receive. The group then will view and discuss the tape. Each session of the workshop will be limited to eight or fewer participants to ensure that all group members will be able to show their tapes and receive feedback.

'THE SCIENCE AND ART OF LAW TEACHING'

INSTITUTE FOR LAW SCHOOL TEACHING SUMMER CONFERENCE: JULY 14-15, 1995

Name: _____
School: _____
Address: _____

City/State/Zip: _____
Phone: () _____
Fax: () _____
Courses you teach: _____

Check two of three a.m. workshops:

- Multiple-Choice Exam Questions
- Effective Discussion Techniques
 - Section I or Section II
- Lawyering Skills

Check two of three p.m. workshops:

- Cooperative Learning
- Planning Effective Legal Teaching
- Feedback on Your Teaching

- Enclosed is a check for \$415 (\$460 if postmarked after May 16) (includes 2 breakfasts, 2 lunches, and dinner on Friday, July 14).
- Enclosed is a check for \$ _____ for _____ (#) guests for dinner on Friday, July 14 (\$45 per guest).
- Please check if you prefer vegetarian meals.
- Please check if you plan to go river rafting on Sunday, July 16. (Reservations must be made directly with River Odysseys West.)

Return the form and your check (payable to Gonzaga University) to:
Institute for Law School Teaching, Attn: P. Prather
Gonzaga University School of Law, P.O. Box 3528, Spokane, WA 99220-3528

Visual aids give your students the big picture

Several participants at the Institute's 1994 summer conference shared ideas for using visuals or graphics in the classroom. Here are two:

Many students learn better visually than textually. To reach those students I use many graphics in my materials and in class. One of the most effective ways I have learned to use them is to ask the students to participate in their creation. This makes them much more invested in the graphic and requires that they really master the material.

There are several ways to get students to participate. Sometimes I produce a template and ask the students — either in class or as part of their homework — to fill it in. For example, I ask them to chart out the parol evidence rule of U.C.C. § 2-202 by filling in a chart indicating what type of evidence is admissible under what circumstances. Other times I ask students to create the graphic completely on their own. For example, in Contracts, after covering the contract policing doctrines (e.g., fraud, duress, unconscionability, mistake, frustration of purpose), I ask the students to present a one-page graphical depiction of how these doctrines interrelate. I then use their work to discuss the relationship of the various doctrines. They become very engaged when working on such a project and they often produce very elaborate and clever art work.

Submitted by Stephen L. Sepinuck, Gonzaga University School of Law

I use an overhead projector and transparencies in my Civil Procedure class to help explain each concept — from the basics of the class syllabus to personal jurisdiction.

Why do I use visual aids? A “basic” of my litigation training was that visual aids are essential, both at trial and on appeal. Most people, including juries and judges, learn more when they can both see and hear the material.

Visual aids are of special benefit to law students who are learning not only new material but a new way of thinking. Through visual aids, the students can see and learn by example the types of analysis that will help them in law school and practice. Most students do not know even the most simple forms of analyses and data manipulation. By depicting these on overheads, I teach not only the ultimate rule of law but also how I got there. Once students see the

different types of analyses, they can develop their own form, best suited for them. In addition, by using and explaining why I use visual aids, the students will learn this “basic” of effective litigation presentation.

Why do I use overheads (rather than other forms of visual aids)? In practice, I experimented with many forms of visual aids and concluded that the simpler way was the better way. Overheads are particularly useful in the classroom. Unlike “hi-tech” aids, overheads cost only pennies for each transparency. I can prepare them minutes before class with a

standard copy machine. They are simple to use and do not divert attention. Overheads are easier to see than chalkboards, students can have their own copy, and I can use the same transparency again, tying together old and new concepts.

How do I use overheads? I use transparencies to help teach almost every element of the class. For example, I teach the students how to dissect the rules of civil procedure by going over each rule word by word with a student. My transparency is simply the rule itself, which I have typed on a single page.

I begin a discussion of cases by teaching students how to master the facts of complicated cases using a chronology or diagram of the case's procedural history or underlying facts. I often

create these aids during class on a blank transparency using information given by a student. I also pull out and dissect key tests and quotations from the cases.

As the class progresses through a topic, I help students understand how it all fits together by using a variety of analyses and summaries, including flowcharts, line drawings, and tables.

I do not consider myself ready for class until I have tinkered with different forms of visual aids for the day. Creating the overhead is a good check on my own preparation, and the visual aid gives structure to the class discussion (and my notes).

I distribute most pre-typed materials in hard copy to the students when I first use them in class. If I do not give copies, students spend class time writing down every word rather than listening. If I give copies out too early, students forget them or prepare for class by trying to figure out my materials rather than first attempting to analyze the cases or rules on their own.

Submitted by Carol Rice, University of Illinois College of Law

Getting Graphic in class

Law teachers can increase their effectiveness in the classroom and enhance their students' learning through the use of graphics. A new Institute publication, *Getting Graphic 2™: Visual Tools for Teaching and Learning Law*, by Corinne Cooper, is an outstanding resource for legal educators who use or wish to use visuals as part of their teaching.

Getting Graphic 2™ covers both the “why” and “how” of using graphics in law school classrooms. The book begins with a summary of learning and schemata theories and the role of visuals to aid students' understanding of complex ideas. Then, Professor Cooper describes the function of twelve types of graphics, including timelines, charts, diagrams, graphs, and pictures. Examples of graphics used in a variety of law school courses are included. *Getting Graphic 2™* concludes with practical tips on the design of visuals.

Copies of *Getting Graphic 2™* are available at a cost of \$20. To order, contact Paula Prather at (509) 328-4220 (ext. 3740).

Teachers can help students 'translate' ideas

By Martha M. Peters

A student says, "Excuse me, professor. I did not understand that." The professor then repeats the statement in a louder voice, enunciating all the words more clearly.

Sometimes a louder repetition is exactly what students need. More often, students' questions indicate that they have not been able to connect the concept to something significant for them. If so, they need different words to make the professor's communication meaningful. They need words that touch their knowledge base and experience.

Recently, a student made this point by telling me that one of her professors routinely explained every concept in two different ways. The professor's first explanation was like a foreign language to the student, but the second explanation was usually more experientially based and more understandable. The student made it a practice to write down both explanations and put an equal sign between them so she could work on learning the terminology and meaning of the first explanation from her understanding of the second. She described her experience as "translating."

Why "translate"?

One reason for the need to "translate" is the inherent difference in starting points between an expert and a novice. For an expert who has already put together a framework or mental map of an area of law, concepts have context and fit within a larger picture or pattern of relationships. This "seamless web" is a reflection of the integrated knowledge of the expert.

Students, however, start as novices, bringing only their interest in learning and whatever experiences and knowledge their lives and academic backgrounds provide. Instead of the multidimensional, intricate pattern of the expert, students must sort through a variety of maps developed for other areas. They scan for similarity of content or pattern to connect this new concept with past knowledge and experience. Only then can they begin constructing simple frameworks for the new concepts.

The difference between a teacher and another expert is the teacher's willingness to stop and make "seams" or entry points that help the novice. The expert may try to reach back to recall early experiences with legal concepts, but while important, this will still be limited because the expert cannot easily erase current insights, and because there are many learning factors.

Variety of learning styles

The teacher's particular experience is but one of many possible processes for learning the same material. For the teacher, this may be the clearest, easiest way to understand: It worked for her or him! However, many students will

require different methods and metaphors. The need for other ways to cognize material is prescribed by past experience and learning style, not intelligence. Even when the student develops a complex, integrated pattern of understanding, it will not exactly match the professor's. However, if learning is accurate, the pattern will have the same basic elements, similar relationships, and corresponding application outcomes.

In any class, there probably are more students who learn

in ways different from the professor than students who learn similarly to that professor. How do teachers bridge the gap? How do students cross the bridge? In fact, most students do make that leap, sometimes

because of the teacher, sometimes in spite of the teacher.

I believe good teachers invite students to participate in a joint project as equal partners with different resources and responsibilities. To ascertain what students need, we should look to them to give us clues about how to build the bridge. What are they doing to translate, understand, integrate, and apply the material? How can we use this information to improve our communication with students?

Translation aids

Students who use commercial or "grapevine" study aids may provide one clue. Many students use these materials to help them identify basic vocabulary and simple relationship patterns, or to help them sort major concepts. The teacher who believes students who use study aids are lazy overlooks the reality that many students need resources to consult that reinforce or clarify their understanding from a different perspective and in different words.

In my experience, students may benefit from using study aids as a tertiary source, to confirm or illuminate their understanding of the material or the process of analysis that they encountered in reading for class and in class discussion. It often helps to see something simplified so that the primary elements are identified more easily when they are applied to another context or in another problem. Going over the terminology and concepts in a somewhat different form also provides a review. A discrepancy between their professor's presentation and these other materials motivates students to learn more in order to clarify or resolve the contradiction.

The process of "translating"

However, for some students who need to translate, study aids are not effective. I recall one student who tried a number of study aids at the urging of his study group, but he succeeded only when he started analytically flow-charting his courses. Another student came to see me because she was having difficulty outlining. She needed to have a visual image of analyses. She loved to flow-chart. In fact, it was so much fun for her to use that process that she assumed it was

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One reason for the need to "translate" is the inherent difference in starting points between an expert and a novice.

Multiple-choice question bank is now available

The Institute's newest project is a multiple-choice question bank. We are collecting multiple-choice questions and will send them to any law teachers who request them. We have questions in the following areas:

Civil Procedure; Contracts; Corporations/Business Associations/Agency & Partnership; Criminal Law; Criminal Procedure; Estates, Wills & Trusts; Evidence; Federal Income Tax; Insurance; Labor Law; Property; Remedies; Securities Regulation; Torts; and UCC Art. 9.

Contributing questions to the bank: The Institute encourages all law teachers to contribute to the bank. To participate, send hard copies of your questions to the Institute. Arrange your questions by subject area, and include a cover memo that explains restrictions, if any, on

the distribution of your questions. Transmit the cover memos and questions in a form that the Institute can simply copy and send to others. The Institute encourages you to send questions in other subject areas; new subjects will be added as soon as the Institute receives two or more contributions in an area.

Receiving questions from the bank: Any law teacher may request copies of questions. To request copies, write to the Institute on your law school's stationery, identify the subjects for which you want to receive questions, and indicate your willingness to comply with contributors' restrictions on distribution of the questions. As new contributors send questions to the bank, the Institute will mail the new questions to teachers who have requested questions in the subject area during the preceding two years.

Translating

Continued from page 9

wrong. Everyone she knew was working on outlines, and all the organizational models she had seen were in outline form, so she thought she needed to work harder to make outlines. When she could visualize the material through a flow-chart, her grades shot up.

In the classroom, visually oriented students need to take the professor's oral message and translate. For these students, charts or visual schematics showing the relationship of the different elements of a concept can be helpful. Encouraging students to work through the development of a flow chart or decision tree in class can reinforce concepts. Asking them to apply their visual structures to hypotheticals will help them to refine their conceptual framework.

Other students learn better auditorially. A useful translation aid for these students is to let them tape-record classes. For this type of learner, taking notes interferes with the learning process, but without a record of what happened in class, they cannot do the next important step of learning: reviewing. Handing out an outline of important class points at the beginning of class also can free students to use their auditory learning by listening with their full attention.

A realistic problem method makes the material more useful and concrete for many students. They learn by using and applying the material. These learners usually want to be able to see how something works. They want to know when and how it is used. Problems, role-plays, and small-group tasks help these students to translate.

Other ways to facilitate "translating"

Some students need a framework or overview to have a context within which to put details. Their process of translating involves relating cases to the big picture. Without the big picture for reference, they are often

confused and have a difficult time sorting through all the information. Giving an overview and assigning materials that provide a brief synopsis of the material to be covered and its relationship within the course are beneficial for these students. Other students find overviews so shallow as to be meaningless without the factual situations that give the general principles depth. Providing a summary when finishing a section helps them bring the material together.

"Translating" for exams

I have found that students who need to translate what a professor has said in order to make it meaningful within their

context need to be careful about accuracy when translating back on exams. Not surprisingly, those students with the greatest need to "translate" often find themselves hard-pressed to get this process accomplished within the time limits imposed by most exams. Also, their class preparation often includes

translating into their understanding, which takes more time than just reading the next day's assignment.

The more congruent the student's learning style is to the professor's, and the more the student and professor have in common, the more likely it is that the student will share and understand the professor's constructs and examples. The challenge in a diverse classroom is finding ways to communicate with students who have dissimilar experiences, interests, and learning styles. Bridging that gap is a significant reward of teaching.

Martha M. Peters is director of the Law Student Resource Program at the University of Florida College of Law. For more information, contact her there at S.W. 2nd Avenue at S.W. 25th Street, Gainesville, FL 32611, (904) 392-0421, FAX (904) 392-3005, e-mail: peters.mar.@law.ufl.edu.

Institute announces grant program for 1995-96

The Institute for Law School Teaching invites law teachers to submit applications for grants of up to \$5,000 for projects designed to improve law school education. All of the information necessary to complete an application is contained below.

Since 1992, grants have been awarded for projects in the following areas: externship programs; teaching styles; teaching writing skills through substantive courses; peer teaching; the relationship between learning styles, study strategies, and success in the first year; reasoning skills; effective teaching strategies and techniques; adult education theory; adaptation of learning techniques to legal education; lawyer satisfaction with preparation for the profession; and assessment of law school curriculum.

Purpose

The purpose of the Institute's grant program is to improve the quality of law school education through research on effective teaching and wide dissemination of the results of that research. The Institute recognizes that a wide variety of projects can further that purpose. Appropriate projects could include the demonstration of innovative teaching techniques, empirical research, the creation of innovative teaching materials, or scholarship regarding law school teaching.

Grant applications

Grant applications must include a cover sheet, a narrative, and a budget.

Cover Sheet. The cover sheet must contain the title of the proposed project and the name, address, and phone number of the organization or individual submitting the application. To facilitate objective evaluation of the grant applications, the name of the individual or organization should not appear

Criteria

All persons are eligible for grants except employees of Gonzaga University. Applications will be evaluated on the basis of the following criteria:

- *The clarity of the proposal.*
- *The soundness and innovation of the approach described.*
- *The benefits to legal education.*
- *The reasonableness of the budget.*

anywhere else in the application.

Narrative. The narrative should not exceed five pages, double-spaced, on 8½" by 11" paper. The narrative should describe:

- Need for the project. Why is this project needed and how will it benefit law school education?
- Project objectives. What is the project intended to accomplish?
- Project description. What tasks will the recipient perform to achieve the project objectives?
- Project evaluation. How will the effects and quality of the project be determined?
- Project product. What will be the final product of the project and how will it be disseminated?
- Project schedule. When will the

project begin and end?

Budget. The budget should follow the format of the accompanying form, and (except in unusual circumstances) should be no longer than one page. For each applicable category, list the projected cost and describe that projection. Regardless of the amount of the budget, grant awards will not exceed \$5,000.

Selection process

The Institute must receive completed applications on or before May 26, 1995. Applications should be sent to:

*Institute for Law School Teaching
Gonzaga University School of Law
P.O. Box 3528
Spokane WA 99220-3528*

The Institute will award grants and notify all applicants by June 30, 1995.

GRANT APPLICATION BUDGET: 1995-96

Personnel (description):	\$ _____
Travel (description):	\$ _____
Supplies (description):	\$ _____
Telephone (description):	\$ _____
Postage (description):	\$ _____
Printing/Photocopying (description):	\$ _____
Other (description):	\$ _____
	TOTAL REQUESTED FROM INSTITUTE \$ _____
Moneys applied for/received from other sources (description):	\$ _____

Electronic 'newsgroups' keep discussions going

By Bruce A. Markell

Some of the best learning occurs after class. Discussions I have had immediately after class or during office hours have been my most productive. In order to try to promote these types of conversations, I recently have experimented with Internet newsgroups.

Internet newsgroups are akin to the old-style, push-pin, bulletin boards. People "post" messages of general interest, and others respond. There is an opportunity to exchange views, ask questions, or quickly disseminate general-interest information. I have used newsgroups in two classes: Contracts and Advanced Bankruptcy. The results so far have been generally favorable.

In both classes, I use the newsgroup to quickly distribute general information. In

Contracts, for example, I often have the students go through a problem that highlights issues we have just studied. After going through the problem in class, I post my answer (which is often informed by class discussion) to the newsgroup.

Students can also post messages and questions. Although I could screen the postings, I choose not to.

So far, I have not had any problems with the tone of the messages or with "flame wars" (an Internet term for a no-holds-barred, in-your-face, insult-laden diatribe). In fact, the student messages have been courteous and in many cases thoughtful. They have ranged from general inquiries (how do courts decide who will write the opinion) to specific inquiries about something we discussed in class. These later posts often draw responses — again uncensored — from other students. I add my two cents only when useful to focus the discussion.

How many students use the group? In Contracts, I have a class of 74. During the first semester (it is a full-year course), there were 42 messages posted, 28 from students. Ten students accounted for these 28 messages. Several messages were part of a coherent "thread." We had one extended discussion on promissory estoppel and bid practices in the construction industry, which I think many students found helpful.

Advanced Bankruptcy just started, but by the third week one-third of the students in the seminar had posted something.

Although only ten Contracts students posted messages, many more read them. In my first-semester evaluations, for example, some 40 students mentioned that they liked the newsgroup concept and read the postings regularly.

How do students read or post messages? To answer that question, I first have to resort to a little technobabble. Newsgroups are technically part of something called "Usenet." Usenet, in turn, is a worldwide discussion system. It is available on many computer systems and networks, but the bulk of modern Usenet traffic is transported generally over the Internet. It consists of a set of "newsgroups" with names classified hierarchically by subject. There are over 7,000 newsgroups, ranging from the serious to the silly to the obscene.

People with the appropriate computer software post "articles" or "messages" to these newsgroups, and these articles are then broadcast to other interconnected computer systems via many networks. Some newsgroups are "moderated"; in these newsgroups, the articles are first sent to a moderator for approval before appearing in the newsgroup. (I use the unmoderated format.)

To use newsgroups, your university must have a Usenet server. The administrator controls both how the system is set up and who has access. He or she also controls what

newsgroups can be read through that server.

Once the newsgroup is set up, how do students gain access? At Indiana, they can use the law school's

computers, which are set up with software called "newsreaders" that enable students to reach the newsgroup postings, or they can use a modem to reach a central computer from their homes. Both methods require some instruction, although I did not spend more than ten minutes explaining the concept in either class. I did, however, prepare a fairly extensive handout giving them access instructions and leading them through a hypothetical newsgroup session.

As more students receive some form of computer-aided instruction at their undergraduate institutions, I think most present and future law students will welcome the opportunity to "chat" electronically. Indeed, many students seem almost grateful for an alternative method to ask questions which allows them to reflect and measure their responses.

Reading the messages has also given me an added opportunity to measure the temperature and temperament of the class. This feature alone makes experimentation with newsgroups attractive.

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