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THE ART AND CRAFT OF TEACHING

ART RESTING ON CRAFT

ALFRED C. YEN*

I like to think that teaching rises to the level of art. That art, however, rests on a craft. Like any musician or actor, teachers must master techniques which can be executed at a moment's notice. No violinist can succeed without command of scales, bowing techniques and an understanding of the music he or she performs. Similarly, law teachers must understand their area of the law and command teaching methods such as the socratic case method, the problem method, or lecturing. In my view, these technical aspects of teaching may be considered crafts because they can be concretely described and learned. Technical proficiency is the basis on which one builds successful performance in class.

Of course, technical mastery is only part of becoming a successful law teacher. The would-be artist with many tools at her disposal must also decide which ones to use, when to use them and how to use them. These choices make up the heart of teaching's artistic aspects. First, a teacher must plan the class. Preliminary decisions about how and when to cover the day's topic is analogous to writing the script for a play. Second, the teacher must actually conduct the class. This is akin to "performing" the script. Without calling myself an artist, I hope to show how these artistic aspects of teaching depend on the mastery of technical crafts. In so doing, I also hope to impart some of the considerations behind my own selection of teaching methods. I will begin by describing how I create a class plan.

In a nutshell, my classroom style combines three specific techniques — the problem method, the socratic case method and the lecture. At the risk of being controversial, let me state that, in my experience, each of these methods has particular strengths which recommend their use. First, the problem method is very good for getting students to

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exercise their intuition. Most students like to solve problems. Since problem oriented discussions are not constrained by the boundaries of a judicial opinion, they encourage students to use their common sense on legal problems. Second, the socratic case method is effective at getting students to concentrate on specific forms of judicial reasoning. By forcing students to describe what a court has done, the socratic method shows how courts choose among different methods of deciding cases. The actual decisions can then be examined and criticized. Third, lectures are good at giving students information, summarizing points made via the problem method or socratic case method and changing the direction of the class.

I will now apply these observations to the initial choice of methods for teaching conditional relevance to my evidence class. I want the first hour in this topic to convey three points. First, the class must learn how to recognize conditional relevance problems. Second, students must learn how much proof the federal rules require to establish a conditional fact. Third, they must become familiar with the procedures used to cure a conditional relevance problem. The assigned reading for the class consists of Federal Rules of Evidence 401 and 104(b), the relevant advisory committee notes, and a single case.¹

Without doubt, it would be possible to teach the entire class with any one of three methods — the problem method, the socratic method or the lecture. However, I deliberately use each of the three different methods for two reasons. First, I find that the strength of each technique matches one of the points I am trying to make. Second, I sense that techniques which help some students often do not work with others. I therefore feel some obligation to use techniques which work for each student at some time during my classes.²

The correspondence between particular techniques and specific points can be seen by considering how to teach recognition of conditional relevance problems. The conventional socratic method instructor would probably have a student recite the facts of a case which raised a conditional relevance problem. When asked about the issue being decided, the student would presumably respond by identifying the offered evidence and the condition upon which its relevance depends. The class would learn how to recognize conditional relevance by imitating the reasoning of the opinion.

While such a method can be effective, its reliance on imitation is problematic. Opinions are often less than clear. Furthermore, concentration on the formal presentation found in judicial opinions hides the

1. The case is *Romano v. Ann & Hope Factory Outlet, Inc.*, 417 A.2d 1375 (R.I. 1980).

2. This observation is corroborated by psychological research which shows that individuals often have different learning styles. See LAWRENCE, *PEOPLE TYPES & TIGER STRIPES* (1982).

informal and intuitive aspects of recognizing conditional relevance. This disserves students who must learn to recognize conditional relevance problems during the heat of trial. A teaching method which allows the students to directly experience, as opposed to watch, conditional relevance would therefore be desirable. My solution is to present the class with a hypothetical conditional relevance problem. Since there can be no judicial reasoning to regurgitate, student responses to the problem become intuitive and analytical. Students learn to think for themselves.

Similar considerations underlie my choice of technique for the other points I make. Since the assigned reading contains no information about the procedures an attorney uses to cure conditional relevance problems, I fill in this gap by lecturing. Asking students to intuit this information from the problem or socratic method would be difficult and unfair. Finally, since the federal rules' standard of proof establishing conditional facts is the product of a conscious policy decision, I conduct a socratic dialogue of a case in which a state court considers and rejects the federal rules' position. This forces students to consider and learn both the federal rules' position and the contrary policies sometimes reached by state courts.

Having now described my initial choice of classroom methods, I will move on to outlining the class plan I use for combining these methods. First, I often lecture to sum up the developments of the previous class. I then pause for questions. This ensures that the entire class is on the same page before I continue. I then present the class with the following hypothetical:

Suppose that the defendant is accused of running a red light and hitting the plaintiff's car in an intersection near the Boston College campus. Suppose further that the plaintiff calls the defendant as a witness and asks the defendant if she is a fan of Boston College football. Is the question relevant?

Students usually respond that the question is not relevant. However, their more reflective colleagues eventually chime in and state, "It depends on whether the defendant was late for a football game."³ Once this happens, I get the answering student to articulate the structure of conditional relevance problems. I then summarize and restate the initial point via lecture.⁴

Once this lecture is finished, I ask for questions. It is usually not long before someone asks what procedures are used to correct conditional relevance problems. Although I could employ the classic law pro-

3. The answer is not always stated so clearly, but the substance is usually the same.

4. By making the point two different ways, I give students a chance to exercise intuition and then reinforce for those who may be confused. I also hope to play to more than one learning type.

fessor strategy of asking, "What do you think?", it would be unfair to expect students to intuit all the relevant possibilities. Therefore, I usually answer the question directly with a prepared lecture.⁵

Of course, one problem is that lectures make students passive. However, lectures also give the teacher a chance to take complete control of the direction in which the class proceeds. I therefore use my lecture on court procedures to shift attention from the concept of conditional relevance to the degree of proof required to establish missing conditions. Once I plant this topic in the students' minds, I start a socratic dialogue over the *Romano* case. After I call on a student and get the facts of the case, I ask the student to explain the evidentiary problem the Romanos faced. This provides a good socratic approach to the already covered problem of recognizing conditional relevance. I then note that the Romanos were appealing a ruling against them in the lower court, and I ask what the Romanos contended on appeal. This gets the student to identify the federal rules standard about conditional relevance and articulate the philosophy behind the rule. I then ask how the Romanos' argument fared. Since the Romanos lost, this provides a good chance to raise the policy issues at stake. I then ask the student whether she thinks the *Romano* court did the right thing. This generally leads to a wide open discussion among members of the class about the policies behind evidence law. This plan easily occupies a normal fifty minute class.

The foregoing shows how one artistic aspect of teaching — the planning of a class — depends on technical mastery. Planning a class is an art in the sense that writing a script is an art. The art stands on craft because the effective choices depend on the technical mastery of various classroom methods.

I now will turn briefly to how the second artistic aspect of teaching — classroom performance — also depends on craft. As all teachers know, the best class plans are never conducted exactly as intended. What happens if no one can answer an introductory hypothetical? What does one do when a student gives an unexpected but plausible response? What happens when everyone gets confused? What if you get a brilliant student who cuts right to the heart of the matter and short circuits a half an hour of class? I'm not sure what others do, but when these things happen, I improvise. If the problem method fails, I may ask students to talk about a case which is on point. Confusion may warrant a lecture, or perhaps another hypothetical. Brilliant students deserve praise, and perhaps questions designed to challenge them further. In all of these situations, there is simply no way to plan what to do in advance.

5. As a general policy I always try to answer questions directly. Although socratic and problem methods work by "hiding the ball," I find that continuing the game when answering questions usually confuses students.

Here, perhaps more than anywhere, the art of teaching depends on craft. Although classes, plays, and concerts are to some extent planned, the performers take their cues from events which cannot be completely predicted. Actors must wait for lines spoken by other actors. Soloists take the tempo set by their accompanists. Law teachers react to the questions and answers of their students. Such unpredictability means that a lot of teaching has to be done spontaneously. The teacher must select a method and execute it immediately. No time exists for research or careful planning.

The teacher who encounters this situation without broad technical mastery is doomed. Without appreciation for the strengths and weaknesses of lecture, socratic dialogue, or problem methods, her choice of classroom technique is likely to be ineffective. If the teacher is unfamiliar with using these or other methods, she will not use them skillfully even if her choice of method is sound. On the other hand, if the teacher in this situation is a sound technician, she stands a good chance of success. Technical mastery will lead to a good choice of method and solid execution. More importantly, the wide range of options open to the technically skilled teacher leaves her totally free to tailor her class to the individual needs of her students. Flexibility will make her clear, challenging, enthusiastic, and inspiring. In short, she will become one of those teachers who makes a strong and lasting contribution to the lives of her students.

