



2002

# Introduction to Erasing Lines: Integrating the Law School Curriculum

Amy E. Sloan

*University of Baltimore School of Law*, [asloan@ubalt.edu](mailto:asloan@ubalt.edu)

Follow this and additional works at: [http://scholarworks.law.ubalt.edu/all\\_fac](http://scholarworks.law.ubalt.edu/all_fac)

 Part of the [Legal Education Commons](#), and the [Legal Writing and Research Commons](#)

---

## Recommended Citation

Introduction to Erasing Lines: Integrating the Law School Curriculum, 1 J. ALWD 3 (2002)

This Article is brought to you for free and open access by the Faculty Scholarship at ScholarWorks@University of Baltimore School of Law. It has been accepted for inclusion in All Faculty Scholarship by an authorized administrator of ScholarWorks@University of Baltimore School of Law. For more information, please contact [snolan@ubalt.edu](mailto:snolan@ubalt.edu).

## Erasing Lines: Integrating the Law School Curriculum

Amy E. Sloan<sup>1</sup>

It is my great pleasure to welcome all of you as we begin the Third Biennial Conference of the Association of Legal Writing Directors. My job as the Program Chair for the conference is to introduce our theme and offer some starting points for the conversation on curricular innovation that we are beginning today.

The theme of the conference is Erasing Lines: Integrating the Law School Curriculum. Our goal is to begin the process of erasing the often artificial lines that presently exist between “doctrinal” and “skills” courses, between education focused on the acquisition of knowledge and education focused on the practical application of that knowledge.

The lines that have been drawn between “doctrinal” and “skills” courses are, in actuality, more a matter of perception than reality. If we were to deconstruct the pedagogical goals in both of these types of courses, we would find they have as many similarities as they have differences. By choosing to focus on their differences, we create and reinforce a hierarchy that is reflected in faculty status, course credit hours, and other indicia of privilege.<sup>2</sup>

To take just one example, deconstructing the pedagogical goals in a traditional, first-year doctrinal class and a typical, first-year legal research and writing class causes the lines virtually to disappear. I would identify the following five pedagogical goals common to both types of classes.<sup>3</sup>

---

1. © Amy E. Sloan 2002. All rights reserved. Amy E. Sloan is Associate Professor of Law and Co-director of the Legal Skills Program at the University of Baltimore School of Law. As the Program Chair for this conference, I would like to acknowledge the members of the Program Planning and Site Committees, especially Pamela Lysaght and Bradley Clary, for their work on the conference. I am also grateful to the presenters who shared their knowledge and insight with those of us who attended the conference. For assistance with this article, I would like to thank Pamela Lysaght and Kathryn M. Stanchi, as well as my research assistant, John Maclean.

2. I refer, of course, to the subordination of “skills” education to “doctrinal” education by the legal academy. See e.g. Jan M. Levine, *Leveling the Hill of Sisyphus: Becoming a Professor of Legal Writing*, 26 Fla. State L. Rev. 1067 (1999); Richard K. Neumann, Jr., *Donald Shoen, the Reflective Practitioner, and the Comparative Failure of Legal Education*, 6 Clinical L. Rev. 401 (2000) (hereinafter *The Reflective Practitioner*); Kent Syverud, *The Caste System and Best Practices in Legal Education*, 1 J. ALWD 12 (2002).

3. This list is purely my own invention. Without doubt, others could identify additional or altogether different pedagogical goals of first-year doctrinal and legal research and writing courses. Some of these items I generated through my own research and teaching experiences.

First, both classes involve teaching the syllogism from classical rhetoric, not simply as a heuristic for expressing legal arguments, but as a way of approaching legal problems.<sup>4</sup> Most of us in law teaching have been thinking in terms of the syllogism for so long that we no longer recognize its use as a choice of problem-solving methodology. In fact, however, approaching a problem by identifying the issue, invoking a rule applicable to the problem (major premise), applying the rule to the facts (minor premise), and reaching a conclusion is a choice of problem-solving methodology. One of the primary goals of both a first-year doctrinal class and a first-year legal research and writing class is teaching students this methodology and helping them internalize it as a paradigm for analyzing legal issues.<sup>5</sup>

Second, both types of classes involve teaching expression (oral, written, or both),<sup>6</sup> not simply as a mode of communicating pre-existing ideas, but rather, as a means of creating knowledge.<sup>7</sup> Students speaking in class do not present

---

I was fortunate to be able to develop these ideas further for a presentation to the Howard University Law School curriculum committee on February 14, 2002.

4. Steven D. Jamar, *Aristotle Teaches Persuasion: The Psychic Connection*, 8 *Scribes* \_\_\_ (forthcoming 2001-2002) (explaining that the syllogism consists of a major premise (rule), minor premise (facts) and conclusion and contrasting formal logic with the rhetorical syllogism, or enthymeme, commonly used in legal reasoning). The syllogism certainly is not the end all and be all of legal analysis, and the “IRAC” variant of the syllogism has been criticized extensively. See e.g. 10 *Second Draft* 1, 1-20 (1995) (Legal Writing Institute newsletter issue devoted to the benefits and shortcomings of teaching the “IRAC” model of legal analysis).

Whatever its shortcomings, however, syllogistic reasoning remains at the core of much legal analysis and is, in many respects, the starting point of a first-year law student’s education in law and argumentation. See e.g. Linda H. Edwards, *Legal Writing: Process, Analysis, and Organization* 87-90 (3d ed. Aspen L. & Bus. 2002) (legal writing text discussing organizing a legal argument by identifying the issue, stating the applicable legal rule, explaining the source of the rule; applying the rule to the facts, and stating a conclusion); Richard K. Neumann, Jr., *Legal Reasoning and Legal Writing: Structure, Strategy, and Style* 95-96 (4th ed. Aspen L. & Bus. 2001) (legal writing text teaching legal argument structured around a conclusion, the supporting rule, proof of the supporting rule, and application of the rule to the facts) (hereinafter *Legal Reasoning*). In many ways, it is how we conceptualize “lawyering,” even though syllogistic reasoning constitutes a fairly small percentage of what lawyers actually do in practice. Compare Katharine T. Bartlett, *Feminist Legal Methods*, 103 *Harv. L. Rev.* 829, 836 (1990) (describing examination of the facts of a legal issue, identification of the essential features of the facts, determination of the guiding legal principles, and application of those principles to the facts as “what lawyers do”) with *The Reflective Practitioner*, *supra* n. 2, at 405-06 (describing the variety of problem-solving tasks lawyers undertake in practice, of which syllogistic reasoning is only one).

Of course, in class, many professors in doctrinal classes engage their students in a process of inductive reasoning, not deductive, syllogistic reasoning. On the exam, however, students are usually expected to write their answers in syllogistic form.

5. Edwards, *supra* n. 4, at 87-90 (calling the organizational scheme for a legal argument a “paradigm for legal analysis”); *Legal Reasoning*, *supra* n. 4, at 95 (calling the organizational scheme for legal analysis a “paradigm for structuring proof”).

6. For a discussion of the relationship between written and oral expression in legal education, see Lisa Eichhorn, *Writing in the Legal Academy: A Dangerous Supplement?*, 40 *Ariz. L. Rev.* 105 (1998).

7. We are all familiar with the process of discussing ideas orally to create, expand, and develop them. Writing also has long been understood as a form of thinking and as integral to the formation of ideas. See e.g. J. Christopher Rideout & Jill J. Ramsfield, *Legal Writing: A Revised View*, 69 *Wash. L. Rev.* 35, 53-55 (1994); see generally Linda L. Berger, *Applying the New*

polished oral arguments, and written arguments do not spring from students' heads onto the page like Athena springing fully formed from the head of Zeus. The modified Socratic dialogue used in most first-year doctrinal classes<sup>8</sup> is designed to help students both explore the limits of legal arguments and learn to express them. Similarly, writing and rewriting assignments, as well as personal conferences, in first-year legal research and writing classes are designed to help students learn both to create and express legal arguments.<sup>9</sup>

Third, both types of classes involve teaching black letter rules of law.<sup>10</sup> In a first-year doctrinal class, this usually involves teaching students to extract rules from cases. But it also involves much more. It involves teaching students to identify the policy and theoretical foundations for these rules. The goal is not simply for students to parrot back the rules on the final exam, but rather, for them to learn to apply the rules to different factual scenarios

In a first-year legal research and writing class, memorandum and brief assignments also require students to learn black letter rules of law, understand the policy and theoretical underpinnings of the rules, and apply the rules to different factual scenarios. Most legal research and writing classes are not tied to specific substantive areas of law.<sup>11</sup> As a consequence, they differ from doctrinal classes in that the subject area of the black letter rules that students

---

*Rhetoric to Legal Discourse: The Ebb and Flow of Reader and Writer, Text and Context*, 49 J. Leg. Educ. 155 (1999).

8. Eichhorn, *supra* n. 6, at 106-07 (explaining that the questioning in most law classes is a modified version of the Socratic dialogue, sometimes called a "Langdellian" dialogue); Richard K. Neumann, Jr., *A Preliminary Inquiry Into the Art of Critique*, 40 Hastings L.J. 725, 728-29 (1989) (distinguishing the "Langdellian" or "Protagorean" dialogue from a Socratic dialogue).

9. See *infra* n. 21 and accompanying text.

10. Some would argue that this is not, in fact, a primary goal of most first-year doctrinal or legal research and writing courses, arguing instead that the black letter rules are merely a vehicle for teaching the analytical skills that are the true focus of the courses. See e.g. Peter F. Lake, *When Fear Knocks: The Myths and Realities of Law School*, 29 Stetson L. Rev. 1015, 1018-20 (2000). Even those who do not see teaching black letter rules as a primary goal, however, will usually concede two things. First, even if teaching these rules is not a primary goal, students are tested on them and do learn them, so teaching the rules is at least a secondary goal. Second, there is a body of core black letter rules that lawyers are expected to know. These are mostly in areas such as torts, property, contracts, and criminal law – the traditional first-year curriculum. Even professors who say that teaching black letter law is not their primary aim will concede that they want their students to know these fundamental principles. See *id.* at 1018 (acknowledging that first-year classes seek to impart "certain foundational rules and principles of the law, which are the common knowledge of all lawyers.").

Of course, one could argue that teaching these core principles is more akin to socializing students into the legal discourse community than teaching rules of law. See nn.14-16, *infra*, and accompanying text.

11. This is not universally true. For example, the Applied Legal Theory and Analysis Program at the University of Detroit Mercy School of Law is integrated with contracts classes and is one vehicle through which students learn substantive contract law. Pamela Lysaght et al., *Integrating Theory and Practice at University of Detroit Mercy*, 77 Mich. Bar J. 684 (July 1998). Other schools have also experimented with integrating doctrinal courses with legal research and writing courses. See e.g. Joseph W. Glannon et al., *Coordinating Civil Procedure with Legal Research and Writing: A Field Experiment*, 47 J. Leg. Educ. 426 (1997).

learn can vary from year to year or even from section to section.

But there is also another dimension to instruction in black letter rules that takes place in a first-year legal research and writing class. Rather than provide students with the materials from which they must learn the rules,<sup>12</sup> professors of legal research and writing teach students how to find the rules for themselves in the law library. Thus, students in legal research and writing classes learn substantive rules in part by learning about legal research.

Just as writing is not simply transcribing pre-existing thoughts, researching is not simply executing a series of mechanical steps for “discovering” pre-existing legal rules. Learning to research requires learning to construct and categorize legal issues. Determining which rules apply necessarily requires categorizing an issue in a particular way, and being able to characterize the issue differently may lead to application of entirely different rules. Hence, research instruction today typically focuses not on the bibliographic features of research sources, but on research process. Research assignments are no longer library “treasure hunts.” Instead, they often require students to submit research journals and conduct research on projects integrated with other simulated client matters.<sup>13</sup>

Fourth, both first-year doctrinal and legal research and writing classes socialize students into the legal discourse community.<sup>14</sup> Legal language does not exist in a vacuum. It takes its meaning from the surrounding legal culture of which it is a part.<sup>15</sup> For students to understand and use legal language accurately, they must become part of the legal discourse community. In first-year doctrinal classes, this is partially accomplished through reading appellate opinions and partially through opportunities to practice using legal language in the modified Socratic dialogue. In first-year legal research and writing classes, professors simulate the social context in which legal issues arise and are resolved, by, for example, introducing facts through client interviews and requiring students to draft a range of litigation documents in addition to (or even instead of) the appellate brief that was for many years the quintessential

---

12. In some assignments, most notably the “closed research memorandum,” legal research and writing students are provided with the raw material from which they must extract the legal rules. Not all professors use closed research assignments, however, and for those who do use them, they are an incremental step in the process of teaching students how to research and analyze the law independently. *See infra* n. 21 and accompanying text; *see e.g.* Jo Anne Durako, *Building Confidence and Competence in Legal Research Skills: Step By Step*, 3 *Persp.* 87 (1997) (discussing use of assignments that transition from closed to open research to developing students’ research skills incrementally).

13. Terry Jean Seligman, *Beyond “Bingo”?: Educating Legal Researchers as Problem Solvers*, 26 *Wm. Mitchell L. Rev.* 179 (2000). For examples of texts, *see e.g.* Christina L. Kunz et al., *The Process of Legal Research* (5th ed Aspen L. & Bus. 2000) (teaching research as a process); Amy E. Sloan, *Basic Legal Research: Tools & Strategies* (Aspen L. & Bus. 2000) (teaching research process in addition to the bibliographic features of research sources);

14. Joseph M. Williams, *On the Maturing of Legal Writers: Two Models of Growth and Development*, 1 *Leg. Writing* 1, 13 (1991); Rideout & Ramsfield, *supra* n. 7, at 56-62; *see generally* James Boyd White, *The Legal Imagination* (U. of Chi. Press 1973).

15. *See e.g.* Williams, *supra* n. 14, at 13-14; Rideout & Ramsfield, *supra* n. 7, at 56-57.

legal research and writing assignment.<sup>16</sup>

Fifth, and finally, both first-year doctrinal and legal research and writing classes should be structured in a way that takes into account what we know about how people learn.<sup>17</sup> We know that when students learn a new discipline, they do not simply acquire new bits of information. Instead, they have to construct a new intellectual framework or schema in which to place the new information.<sup>18</sup> At the beginning, they try to incorporate their new knowledge into existing paradigms. Gradually, however, they begin to construct a new framework for understanding the new discipline. Once the new framework or schema is in place, then students can more easily integrate new items of information into that framework.<sup>19</sup>

We know, therefore, that in law teaching, we must introduce concepts incrementally, give students opportunities to process the new information, and give them opportunities to practice using the information on their own. Then we can add a new concept and repeat the process so that students gradually create their own internal schema for analyzing the law.<sup>20</sup> By the end of the

---

16. In the wake of the MacCrate Report, many “legal research and writing” courses became, to greater or lesser degrees, “lawyering skills” courses that simulate litigation practice and introduce students to a range of practice skills. ABA Sec. Leg. Educ. & Admis. to the Bar, *Legal Education and Professional Development—An Educational Continuum, Report of the Task Force on Law Schools and the Profession: Narrowing the Gap* (ABA 1992). For a description of the state of this curricular evolution as of the mid-1990s, see Lucia Ann Silecchia, *Legal Skills Training in the First Year of Law School: Research? Writing? Analysis? Or More?*, 100 Dick. L. Rev. 245 (1996) (discussing use of various techniques for providing realistic context to research and writing assignments, both to improve students’ understanding of research and writing and to expose them to a wider range of practice documents). Further information on current trends in legal research and writing curricula is available from the Annual Survey of Legal Research and Writing Programs conducted by ALWD and the Legal Writing Institute (LWI), available at <<http://www.alwd.org>>. The most recent survey results indicate that students at many schools complete a broad array of litigation-oriented writing assignments.

Although litigation is not the only social context in which law exists, it is the one to which first-year students are most commonly introduced, in both doctrinal and legal research and writing classes. This is not, however, true at all schools. The answers to Question 20 in the latest ALWD/LWI survey indicate that some first-year legal research and writing courses introduce students to transactional drafting, and no doubt some doctrinal courses include coverage of transactional drafting as well.

17. See generally M.H. Sam Jacobson, *A Primer on Learning Styles: Reaching Every Student*, 25 Seattle U. L. Rev. 139 (2001) (discussing different learning styles and teaching techniques tailored to those styles).

18. J.H. Flavell, *The Developmental Psychology of Jean Piaget*, 56-57 (D. Van Nostrand 1963); La Pearl Logan Winfrey & Marvin R. Goldfried, *Information Processing and the Human Change Process*, in *Information Processing Approaches to Clinical Psychology* 241, 242 (Rick E. Ingram ed., Academic Press 1986); Williams, *supra* n. 14, at 11-13; see generally Gerald F. Hess, *Listening to Our Students: Obstructing and Enhancing Learning in Law School*, 31 U.S.F. L. Rev. 941, 955-57 (1997) (explaining that students need frameworks in which to integrate new information); Mary Barnard Kay, *How Individual Differences Affect Organization and How Teachers Can Respond to Those Differences*, 5 Leg. Writing 125, 128-30 (1999) (explaining how students’ prior educational and professional experiences affect how they process information).

19. Flavell, *supra* n. 18, at 56-57; Winfrey & Goldfried, *supra* n. 18, at 243; Ray, *supra* n. 18, at 128-30; Williams, *supra* n. 14, at 11-13.

20. Hess, *supra* n. 18, at 942-44; Jacobson, *supra* n. 17, at 170-71. Professors Hess and

first-year, most students will have internalized the syllogistic schema for analyzing legal issues, which is why upper-level courses can focus more on acquisition of knowledge, as opposed to analytical techniques.

It is in this last respect, perhaps, that differences between first-year doctrinal and legal research and writing courses become most apparent. Concepts of learning theory routinely inform first-year legal research and writing classes. The use of incrementally more complex assignments and rewrites, among other techniques, are now standard elements of first-year legal research and writing pedagogy.<sup>21</sup> Whether these ideas have taken root in first-year doctrinal classes is perhaps subject to more debate. Certainly some professors are moving in that direction.<sup>22</sup> The advent of threaded e-mail discussion on course web sites, use of mid-term examinations, and similar efforts all seem to indicate that learning theory is influencing pedagogy in first-year doctrinal classes, although all of us as law teachers probably have much more to learn in this regard.<sup>23</sup>

If we look at the pedagogical goals of first-year doctrinal and legal research and writing classes in this way, they appear to be remarkably similar. Are these classes really the same? Yes, they are. Are they different? Yes, without doubt. It would be futile, and indeed foolish, to try to say that all law school classes are the same or that they should be taught the same way. But it is equally foolish to say that classes that appear on the surface to be different are, in fact, fundamentally different. Whether the courses really are different, and the value we place on their differences, is largely a matter of what we choose to perceive.

---

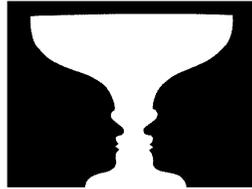
Jacobson discuss the adult learning process. Although our students may not exhibit all of the characteristics of “adult” learners, Linda Morton, et al., *Not Quite Grown Up: The Difficulty of Applying an Adult Education Model to Legal Externs*, 5 *Clinical L. Rev.* 469, 491-515 (1999), these discussions of the adult learning process remain useful for understanding the learning process for many of our students.

21. According to Question 23 in the latest ALWD/LWI survey, *supra* n. 16, rewrites are a standard part of virtually every legal research and writing course. Texts and articles describing research and writing courses further support the use of rewrites and incrementally more complex assignment. See e.g. Amy E. Sloan, *Creating Effective Legal Research Exercises*, 7 *Persp.* 8 (1998) (reprinted in *Best of Perspectives* 30 (2001)) (advocating different approaches for introducing students to research sources and testing students’ knowledge); Amy E. Sloan & Steven D. Schwinn, *Basic Legal Research Workbook* (Aspen L. & Bus. 2002) (workbook of library exercises that gradually increase in complexity from questions that guide students through each step of the research process to questions requiring students to create and execute their own research strategies); Durako, *supra* n. 12 (discussing assignments that transition gradually from closed to open research).

22. See e.g. Gregory S. Munro, *How Do We Know If We Are Achieving Our Goals?: Strategies for Assessing the Outcome of Curricular Innovation*, 1 *J. ALWD* 221 (2002).

23. Gonzaga Law Review, in conjunction with the Institute for Law Teaching, published a Special Edition on Current Methods for Law Teaching that is an excellent resource for material on law teaching. It includes Arturo Lopez & Mary Kay Lundwall, *Moving Beyond Langdell II: An Annotated Bibliography of Current Methods for Law Teaching*, *Gonz. L. Rev. Special Edition* 1 (2000) and Gerald F. Hess, *Monographs on Teaching and Learning for Legal Educators*, *Gonz. L. Rev. Special Edition* 63 (2000). For further information on teaching techniques, see Gregory S. Munro, *Outcomes Assessment for Law Schools* (Inst. for L. Teaching 1999).

If the lines themselves are more perception than reality, then erasing lines is largely a matter of changing our perspective. This is a concept I introduce to my students with the picture below:<sup>24</sup>



Is this a picture of faces or a vase? It is quite obviously a picture of both, depending on your perspective. In litigation, the advocate's role is to convince the fact finder that his or her client's perspective (either the faces or the vase) is the "real" or "true" perspective.<sup>25</sup> But if you look at the picture, you can easily see that both perspectives are "real." It is a picture of faces and a vase at the same time. In reality, both perspectives are true.

One could easily argue, as a mediator no doubt would, that it would be more fruitful to recognize the simultaneous validity of both perspectives, rather than to argue for the "truth" of one view over the other. We could say the same thing about the similarities and differences between "doctrinal" and "skills" classes.<sup>26</sup> Recognizing and valuing the interrelationship between

---

24. This is a very well known image. This version came from a course web site for Honolulu Community College's The Nature of Physical Science class, *Program 3: Paradigms and Perceptions*, <<http://www.hcc.hawaii.edu/hconline/sci122/Programs/p3/p3.html>> (accessed June 1, 2002).

25. See e.g. Stefan H. Krieger et al., *Essential Lawyering Skills: Interviewing, Counseling, Negotiation, and Persuasive Fact Analysis* 112-14 (Aspen L. & Bus. 1999) (discussing internal schemas that cause people to interpret factual situations differently and explaining that, at trial, the fact finder must choose among competing stories of "what really happened").

26. This is something with which feminist scholars have struggled in another context. You will, I hope, forgive me for oversimplifying a rich field of literature for the sake of illustrating my point. In feminist studies, much debate has centered on whether women should be treated equally with men because women and men are the same or because they are different. One school of thought holds that women and men are fundamentally the same, and therefore should be treated equally. This is an equal protection approach to equality. Another school of thought, however, holds that women and men are fundamentally different and that their differences should be equally valued. This is a celebration of difference approach to equality. See e.g. Andrea Jagger, *Sexual Difference and Sexual Equality*, in *Living With Contradictions: Controversies in Feminist Social Ethics* 18-22 (Andrea Jagger ed., Westview Press 1994) (discussing both views); Catharine A. MacKinnon, *Toward a Feminist Theory of the State* 215-34 (Harvard U. Press 1989) (discussing both views).

Although this dualistic approach still surfaces in some contexts, especially in analysis of legal equality between men and women, feminist theorists have largely moved beyond it. The duality of sameness vs. difference is no longer adequate for explaining the relationships between men and women or even the definition of "equality," in part because both positions are simultaneously correct and incorrect. See e.g. Jagger, *supra*, at 25 (noting the inadequacies of both the similarity and difference justifications for equality and advocating "dynamic feminism" that accounts both for similarities and differences); Bartlett, *supra* n. 4, at 880-88 (advocating the "positional stance" in feminist legal method, from which "I can attain self-knowledge through

education in “technical rationality,” or the rules of law, and “practical reflection,” or the process through which professionals solve problems, would benefit not only our students, but also the legal profession as a whole.<sup>27</sup> Beginning that process is the goal of this conference.

I do not want to suggest that this is an easy goal to achieve. In fact, I think it is quite difficult. What would an ideal law school curriculum look like? If we could train future lawyers any way we wanted, what would we do?

No doubt all of us have a few ideas about things we would do differently if we ran the world. But truly to think in a new way is a hard thing to do. Most of us have been teaching long enough to be constrained in our thinking by the orthodoxy of legal education. In other words, most of us, unconsciously if not consciously, think in terms of the constraints that we accept as inherent in the current structure of legal education. And even if there are things we would like to change, I think it is fair to say that many of us are invested in our present ways of teaching law students and are, therefore, resistant to change.

Dare I say that we must “think outside the box” and stop justifying current practice simply because “that’s the way it’s always been done”? Those exhortations are so trite and overused that I can feel my own eyes rolling as I suggest them. And yet, their very triteness reflects the kernel of truth that they hold. These are, in fact, the very things we must do.

The classic story of “thinking outside the box,” and one that many of you have probably already heard, is the story of Federal Express. Fred Smith, the founder of Federal Express, submitted his business proposal as a term paper for a class at Yale. His paper proposed creating an overnight delivery service using a central hub where packages would pass through during the day and be funneled out overnight. His idea was to simplify the logistic of routing packages and create cost savings by centralizing operations.<sup>28</sup>

Smith earned a C on the paper.<sup>29</sup> But I think we all know how the story turned out when he finally put his idea to the test!

---

the effort to identify not only what is different, but also what I have in common with those who have other perspectives.”).

It seems to me that we would do well to recognize the inherent limitations of the dualistic same vs. different analysis of “doctrinal” and “skills” courses in law schools. The courses are simultaneously the same and different, and focusing on this duality distracts us from more productive inquiries into effective pedagogy. Cf. Shunryu Suzuki, *Zen Mind, Beginner’s Mind* (Trudy Dixon ed., Weatherhill 1998) (rejecting the dualism of “beginner” and “expert” in meditative practice and suggesting that one can simultaneously be both a beginner and an expert).

27. *The Reflective Practitioner*, *supra* n. 2, at 404-05 (defining “technical rationality” as substantive knowledge forming the basis of a discipline, which in law would be doctrinal rules, and “practical reflection” as the process through which professionals solve problems, which is undervalued in the legal academy, as well as in other disciplines).

28. This story has attained the status of “urban legend.” See AFU, *Fedex C Grade* <[http://www.urbanlegends.com/products/fedex\\_c\\_grade.html](http://www.urbanlegends.com/products/fedex_c_grade.html)> (accessed June 1, 2002) (confirming the basic facts of the story and quoting Vance H. Trimble, *Overnight Success: Federal Express and Frederick Smith, Its Renegade Creator* 80 (Crown Publishers 1993)).

29. *Id.*

And probably many of you are familiar with the story that business consultants like to tell to show that doing things the way they have always been done is not necessarily a good reason for continuing a practice today. This is the story of the person who always cuts both ends off the roast before cooking it. When asked why, the answer is, "That's the way we've always done it." A few inquiries reveals that it had always been done that way because grandma had to cut the ends off the roast to get it to fit in her pan, something the current generation did not have to do.

I am not suggesting that we should abandon wholesale current models of legal education at the expense of time-tested methods that have proven successful.<sup>30</sup> My point is that if we are really going to create a new vision of legal education, we have to evaluate critically current models and be willing to set aside the conventional wisdom of legal education if necessary. We also have to be willing to set aside our own investments in the current system, and we have to be willing to look at legal education in a new light to find new ways of achieving our goals, or perhaps even to change our goals altogether.

If we can erase the lines and integrate our view of different pedagogical models in legal education, then we will be able to evaluate more clearly the advantages and disadvantages of different approaches in different circumstances. We will be free to choose the techniques that best meet our pedagogical goals without fear that we are crossing lines into dangerous territory, territory in which we do not belong, or territory with which we do not want to be associated. This is not something we can accomplish in a single conference, but it is a process we can begin today. I invite you to join me as we begin erasing lines.

---

30. Otherwise known as "throwing out the baby with the bathwater," to use yet another cliché. For a case in point, consider the many dot-com companies that ignored the conventional wisdom in business planning and now no longer exist. Victoria Furness, *The Price is Right*, *Computer Bus. Review* (Oct. 31, 2001) (available in 2001 WL 27998817) (describing the rise and fall of Internet start-ups); Steven Oberdeck, *Fidelity Executive Looks Back on Dot-Com Crash at Salt Lake City Lecture*, *Knight-Ridder Trib. Bus. News* (Oct. 27, 2001) (available in 2001 WL 29430375) (stating that the stocks of many Internet companies that survived after the dot-com bubble burst lost eighty to ninety-percent of their value and contrasting successful and unsuccessful Internet business strategies).