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Why Law Teachers Should Teach Undergraduates

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For many years, members of the law school faculty at Cornell have taught an introduction to law course that is offered by the government department in the College of Arts and Sciences.[1] The course has surveyed law in general, structured thematically around what law is and what law can and cannot do. Although its teachers have used law school pedagogic techniques in the undergraduate setting, they certainly have not intended the course to be a prelaw practice run. In short, the course—The Nature, Functions, and Limits of Law—is a general education course about law.[2] Our experience leads us to believe fervently that law teachers should teach general undergraduate courses on law.

I. A Role for Law in the Undergraduate Curriculum

Why should law teachers teach undergraduates? Passing over the considerable returns to the law teacher's professional and even personal interests and to the law school's institutional interests, we stress here only the most important reason. Teaching a general course on law to undergraduates is sound education. The course fills a hole in liberal education that a university cannot justifiably leave unfilled. Too often even the best-educated students leave the finest colleges in unblemished ignorance of the concept of law and with little idea of the legal system under which they will live. Neither the would-be educated citizen nor the college graduate entering any of many specialized disciplines can afford such ignorance. Undergraduate legal instruction is the natural counterpart of incorporating interdisciplinary perspectives in the law school curriculum. Not only should lawyers understand more about economics, psychology, philosophy, and the like, but students of these disciplines should know more about law. Law can, should, and must be studied by anyone who wishes to become an educated person. For undergraduates, seeing law as a

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The authors currently coteach the course described in this article.

1. For the history of the movement to teach law in the liberal arts curriculum, see Philip Lader, Experiments in Undergraduate Legal Education: The Teaching of Law in the Liberal Arts Curriculum of American Colleges and Universities, 25 J. Legal Educ. 125, 131–45 (1973).
2. There is an extensive dialogue on teaching law to undergraduates. For a bibliography up to 1973, see *id.* at 141 n.90. For an update, see John J. Bonsignore, Law School Involvement in Undergraduate Legal Studies, 32 J. Legal Educ. 53 (1982).

whole can fill an intellectual gap and illuminate other disciplines; studying some of the details may turn out to be rather practical and intriguing, too.

One might nevertheless ask whether a teacher coming from the law school rather than from the college is the appropriate medium to convey the message.[3] This long-standing debate need not detain us long. Although law teachers must not forget that the course is part of a general education curriculum, their knowledge and even their methodology might give them a comparative advantage. At any rate, while it is true that teaching law to undergraduates should not become the sole province of law schools or lawyers, there is certainly room for an occasional law teacher on the undergraduate level.

II. An Approach to Teaching Undergraduates

A. Course Themes

Let us begin by saying what our course is not. Unlike courses such as Communications Law or Business Law, it is not a technical course with a specific focus that serves as an adjunct to a vocational program. Nor is it a narrow course on one area of law (labor law or constitutional law, for example) open to those who desire that specific knowledge. Instead, our course is an independent general course about law that claims its own rightful place in the liberal arts curriculum.[4]

1. Nature of Law

It is difficult to teach anything about law without teaching everything. Although an introductory course should not attempt complete coverage, it should include specific materials on many kinds of law, and yet it should do more than this if it is to make educational sense. An undergraduate offering should not present law merely as a body of rules or simply survey its contents by studying contracts in a nutshell and then torts, and so on. Rather, the course should include some legal philosophy and learning from other disciplines. However, if students have not been given concrete and comprehensive information about law, an attempt to leap into abstract legal philosophy or to use some other discipline as a perspective from which to view law is apt to confuse and frustrate. Probably least effective and perhaps even educationally detrimental is the prevalent method of flooding novices with a long string of opinion pieces that convey strong attitudes about particular aspects of law. We believe the method should be more analytic. The course should break law down into a manageable number of comprehensible units that students can reconstruct into an intelligible concept of law.[5]

3. See generally Bonsignore, *supra* note 2.
4. See John D. Appel, Law As a Social Science in the Undergraduate Curriculum, 10 J. Legal Educ. 485, 485–87 (1958).
5. There are a number of books designed for such an undergraduate course. See John Paul Ryan, Law, Liberal Education and the Undergraduate Curriculum, 10 Legal Stud. F. 29, 43 (1986); Harry T. Allen & George W. Spiro, New Dimensions in Undergraduate Legal

Although the traditional analytic approach does divide law into the principal legal institutions (judiciary, legislature, executive, and agencies), this division is parochial and distorts more than it clarifies.[6] Instead, we present law as the means to the ends of social ordering. Our course tries to give the students a handle on the nature of law by examining how law does what it does. To show the means that society has at its disposal, we present a set of basic legal techniques for addressing social problems: (1) remedying grievances, (2) imposing punishment, (3) regulating administratively, (4) conferring public benefits, and (5) facilitating private arrangements.[7] For each, we systematically work through the same series of characteristics—the kinds of lawmakers, the mechanisms for applying law, the use of legal coercion, the roles of private persons and their lawyers, and process values (that is, the values involved in evaluating the merit of processes without regard to the outcomes they yield)—and finish with materials on improvements and limitations of the instrument.

This analytic approach logically and comprehensively fleshes out each instrument of the law. The strategy of working through the same series of partially differentiating characteristics for each instrument facilitates comparative analysis. For example, while public officials dominate the administrative-regulatory mode, citizens and their lawyers primarily create enforceable private arrangements. Or, when mechanisms for applying law are compared, students find that in remedying grievances nonassertion of claims and settlement of disputes share similarities with but also differ significantly from prosecutorial discretion and plea bargaining in the penal-corrective mode. By observing that some instruments conform and others differ in each characteristic, students gain an ample understanding of the five distinct instruments.

Studies: A Progress Report on Eighteen Introductory Texts, 28 J. Legal Educ. 112 (1976). Although many are outdated or too descriptive for effective teaching, there are some excellent recent coursebooks. E.g., Harold J. Berman & William R. Greiner, The Nature and Functions of Law 6–7, 4th ed. (Mineola, N.Y., 1980) (presents law, through extensive materials, as a "social institution," not "*essentially* a body of rules"); John J. Bonsignore, Ethan Katsh, Peter d'Errico, Ronald M. Pipkin, Stephen Arons & Janet Rifkin, Before the Law at xiii, 4th ed. (Boston, 1989) (law as an "ongoing process" whose "meaning and content are as changeable as the political, social, and economic forces of the society"); Harold J. Grilliot, Introduction to Law and the Legal System, 3d ed. (Boston, 1983).

We, of course, favor the book that we edited with others: Robert S. Summers, Kevin M. Clermont, Robert A. Hillman, Sheri Lynn Johnson, John J. Barceló III & Doris Marie Provine, Law: Its Nature, Functions, and Limits, 3d ed. (St. Paul, Minn., 1986). Charles G. Howard and Robert S. Summers conceived the book in 1965, and Summers updated it in 1972. Summers's heavy commitments made it impossible for him to participate in the third edition, but we owe the conceptual structure of the book largely to him.

6. For example, we believe that contracts made by private individuals are law not only in the sense that the legal system affords remedies for their breach but also because agreements serve as normative reasons for parties to perform and to avoid disputes. See H. L. A. Hart, The Concept of Law chs. 4–5 (Oxford, 1961). More broadly, the institutional analysis not only underplays the legal role of private players but also hides the collaborative efforts of individuals, courts, legislators, officials, administrators, and others. See Lader, *supra* note 1, at 747.
7. See Robert S. Summers, The Technique Element in Law, 59 Calif. L. Rev. 733, 735 (1971). We are aware, of course, that there are other analytic possibilities for introducing law. See generally Lader, *supra* note 1, at 160–214.

Despite the emphasis on theoretic analysis, we study the defining characteristics by the close examination of particular instances rather than by assigning generalized text. We choose specific illustrative contexts and then turn to primary sources, such as cases, statutes, regulations, programs, and contracts. For instance, when we consider law as an instrument for remedying grievances, we use negligence law as the particular illustrative context.[8] Study of the development of the remedy for negligently inflicted injury in England, the introduction of qualifying doctrines throughout the common-law world, and the conversion to comparative negligence in Illinois works wonderfully to expose the roles of courts and legislatures as lawmakers. An actual negligence case[9] is presented in considerable detail—from injury to pleadings to testimony to appeal—to demonstrate the mechanisms for law application. We then proceed down the list of characteristics: negligence law reveals a coercive scheme for resolving disputes, which depends on an adversary system for attaining truth but which also pursues sometimes competing process values such as fairness. To confront the imperfections of the negligence system, we examine the current push for improvement through alternative dispute resolution. Finally, we introduce the limitations of the grievance-remedial instrument by studying the duty to rescue, an illustration that always embroils the students. Thus, the specific context of negligence law, with a richness of primary sources from which to choose, takes us through a whole instrumentality of the law.

2. Functions and Limits of Law

After introducing the nature of law by comparing and contrasting the five instruments, we explore more fully in the second part of the course how they help society achieve particular goals. We consider the problems of safety and equality, aiming not to teach the substantive law but rather to illustrate how the law helps resolve the problems and how there are limits to what law can do.

Specifically, we first consider how the various legal instruments deal with the problem of product safety. We consider materials on product warranties (illustrating the private-arrangement instrument), negligence law and strict-tort law (the grievance-remedial instrument), the Consumer Product Safety Commission (the administrative-regulatory instrument), regulatory and general criminal statutes for deterring the marketing of unsafe products (the penal-corrective instrument), and federal programs for conferring information to the public about product safety (the public-benefit instrument). Although we again focus on particulars, use primary sources, and sift through technical material, we do not attempt to teach the intricacies of invoking each basic legal technique. We find, however, that once they have completed the general study of the instruments, students comprehend the fundamentals of the effects of each instrument on the problem of product safety.

8. We spend four weeks on law as a grievance-remedial instrument to orient the students and convey some background terminology and information. For the other four legal instruments, we spend two weeks apiece, at least ideally.
9. Brown v. Hayden Island Amusement Co., 233 Or. 416, 378 P.2d 953 (1963).

We ask the class to consider the materials through the eyes of an imaginary social engineer or manager confronted with the problem of product safety. From this perspective, students begin to understand that lawmakers must consider a host of normative, instrumental, and process issues in constructing responses to social problems. Students also discover the limitations of law. For example, the social engineer must initially decide whether society wants public product-safety law at all. Perhaps such law intrudes too heavily on personal freedom and stifles innovation and experimentation.[10] Perhaps market forces better compel manufacturers to build safe products. Even if society wants product-safety law, how much does it want and what is the appropriate content of that law?

With many alternatives available, the social engineer must choose the best legal instrument or mix of instruments to deal with a problem. For example, does law regulating companies' design and manufacturing processes obviate the need for strong liability rules such as strict tort? Even if we need liability rules, are penal sanctions necessary? Would fear of punishment preclude the marketing of experimental products? Would criminal liability unfairly punish the owners of companies who did not themselves decide to market unsafe products and therefore have no moral culpability?[11]

Even if a manager can decide which instrument or instruments are appropriate, the specific content must still be determined. Should product warranties be disclaimable?[12] Should misuse be a defense in a strict-tort case? What is the appropriate penalty for a criminal conviction? Suppose a manufacturer satisfies standards of the Consumer Product Safety Commission, but a consumer is nevertheless injured by a product. Is the manufacturer liable in strict tort?[13] Is a buyer who suffers personal injury entitled to sue a remote manufacturer for breach of warranty or should the lack of privity require the buyer to bring a strict-tort action?

Lawmakers must also consider the appropriate form of substantive law. Should the law of product safety employ bright-line rules or should it utilize standards that invite case-by-case consideration? Clear product-safety rules reduce the costs of administration but increase the potential for unjust results in particular cases, while general standards invite inconsistent decisions and increase administrative costs.[14]

Our study of equality opens up a different kind of social problem. Students learn that disparate normative, instrumental, and process concerns may apply, raising new issues and requiring a new mix of legal instruments. Many themes emerge from the study of safety and equality. For example, law is not monolithic, nor is it a science devoid of values. Law

10. See generally Richard A. Epstein, Modern Products Liability Law 5–7 (Westport, Conn., 1980); Marshall S. Shapo, A Nation of Guinea Pigs (New York, 1979).
11. See, e.g., Developments in the Law—Corporate Crime: Regulating Corporate Behavior Through Criminal Sanctions, 92 Harv. L. Rev. 1227, 1241–43 (1979).
12. See U.C.C. § 2-316 (1990).
13. See, e.g., Wilson v. Piper Aircraft Corp., 282 Or. 61, 577 P.2d 1322 (1978).
14. For a discussion of the paradox of rules and standards in the context of another social issue, bankruptcy, see Robert Weisberg, Commercial Morality, the Merchant Character, and the History of the Voidable Preference, 39 Stan. L. Rev. 3 (1986).

helps society achieve a variety of goals through various means, and legal reasoning requires normative contemplation.[15] Distinct social problems may, however, demand different legal responses. Law reform is perplexing in part because the impact of particular legal rules and processes remains unpredictable. Perhaps most important, students learn that law cannot resolve every social problem. The law works imperfectly. Often the law needs the assistance of nonlegal techniques; sometimes it compounds the social problem.

B. Teaching Methods

Even with enrollments of about 150 students, we unabashedly utilize our version of Socratic dialogue in the classroom.[16] We ask questions based on the short reading assignments and lead a dialogue to try to stimulate students to probe the issues and explore the materials. Because the course is structured to induce self-learning and because it forswears any attempt to convey extensive information about the "black letter" of the law, we have felt little pressure to supplement class discussions with explanatory lectures.

We recognize that Socratic teaching and its law school variations have been the subject of considerable criticism.[17] According to various commentators, the law school method is a poor mode of conveying information; it insults and demeans students[18] and disadvantages women[19]; it requires small classes[20]; it is unstructured and therefore confuses rather than clarifies[21]; and, whatever its strengths, few can teach it well, so that the method often "degenerate[s] into a lecture mode" anyway.[22] Despite the common criticisms and our own doubts about our ability to conduct a successful Socratic class, we find that most of our students, male and female, respond with enthusiasm and energy to the chance for dialogue; few exhibit signs of resentment or ill effects.[23] Indeed, the method is particularly effective in this kind of course. A critical task for the teacher is to overcome the prevailing undergraduate laxness toward class preparation

15. See Lader, *supra* note 1, at 149–52.
16. We suspect that our "Socratic" method may share few similarities with the original. See William C. Heffernan, Not Socrates, But Protagoras: The Sophistic Basis of Legal Education, 29 Buffalo L. Rev. 399 (1980); Richard K. Neumann, Jr., A Preliminary Inquiry Into the Art of Critique, 40 Hastings L.J. 725 (1989) (distinguishing the Socratic method and the "Langdellian" method). Writings on the Socratic method are vast. See Heffernan, *supra,* at 399 n.1.
17. The method is "[o]ften characterized as a series of random questions plucked sadistically from mid-air with semi-mystical answers . . . ." Edward J. Gac, The Socratic Method in Undergraduate Education: Overcoming the Law School Image, 3 Focus on L. Stud., Spring 1988, at 3, 3. See also Bonsignore, *supra* note 2, at 62–64; Neumann, *supra* note 16, at 729 n.18.
18. Neumann, *supra* note 16, at 742 n.53. See also Heffernan, *supra* note 16, at 402.
19. June Cicero, Piercing the Socratic Veil: Adding an Active Learning Alternative in Legal Education, 15 Wm. Mitchell L. Rev. 1011, 1014–15 (1989).
20. *Id.* at 1016.
21. Neumann, *supra* note 16, at 739–40, 742 n.53.
22. Panel Discussion, Clinical Legal Education: Reflections on the Past Fifteen Years and Aspirations for the Future, 36 Cath. U.L. Rev. 337, 339 (1987). See also Neumann, *supra* note 16, at 739.
23. For an essay supporting the use of the Socratic method in undergraduate education, see Gac, *supra* note 17.

and attendance. A Socratic approach stimulates the students to prepare and participate vigorously. Students appear to enjoy the opportunity to participate in class discussions and to test their ideas against alternative points of view, an opportunity lacking in the large lecture classes characteristic of undergraduate education in many universities.

In both principal portions of our course, as we have said, we focus on particulars and use primary sources such as cases. We try to select court opinions that are rich in facts and distinctive in legal reasoning. We believe in the case method for some of the usual reasons: studying cases promotes intellectual discipline[24] and develops analytic skill.[25] Because they encounter materials similar to those found in law school casebooks, undergraduates also gain some insights into how lawyers and judges are trained. We are mindful of the limits of case study,[26] however, especially in an undergraduate course. We therefore supplement the cases with secondary writings on the issue at hand and on its philosophical, psychological, economic, sociological, or historical aspects.

A section of our coverage of the private-arrangement instrument, which treats the roles of private citizens and their lawyers, illustrates our approach. We present a real contract drafted by the parties without the aid of a lawyer, a fictitious letter from a lawyer explaining some of the pitfalls of the parties' agreement, background information about the actual breakdown of the agreement, the judicial decision that resulted when the parties decided to pursue litigation,[27] and an excerpt on the art and psychology of negotiating agreements.[28] The sequence suggests how the law facilitates private arrangements and indicates the role of lawyers in that endeavor. Rather than simply offering propaganda about why people should use lawyers, we discuss why they might sometimes profitably choose not to employ lawyers.[29] In this sequence and throughout the course, we use active teaching techniques, varying the familiar Socratic and case methods only to the degree appropriate for the undergraduate setting.

To maintain the teacher's enthusiasm and energy, we recommend using second- or third-year law students as teaching assistants. Law faculty members have little experience with employing teaching assistants and must realize that using them effectively requires administrative skills along with a well-structured syllabus. It is worth the effort. Good teaching assistants will improve both the course and the professor's life.

24. See, e.g., Bonsignore, *supra* note 2, at 61.
25. See, e.g., Andrew S. Watson, The Quest for Professional Competence: Psychological Aspects of Legal Education, 37 U. Cin. L. Rev. 93, 117 (1968).
26. See, e.g., Jerome Frank, A Plea for Lawyer-Schools, 56 Yale L.J. 1303, 1315 (1947) (case method focuses only on the highest court and ignores other aspects of the legal process). See also Stephen Wizner, What is a Law School? 38 Emory L.J. 701 (1989).
27. White v. Benkowski, 37 Wis.2d 285, 155 N.W.2d 74 (1967).
28. Harry T. Edwards & James J. White, The Lawyer As a Negotiator 112–13 (St. Paul, Minn., 1977).
29. We include Coach Rollie Massimino's famous (to us) quote explaining why he declined the coaching job with the New Jersey Nets: "The Nets were very professional in all their dealings with me. We had some 20 telephone conversations and about five face-to-face meetings. Everything was agreed on verbally and then the lawyers took over with their legalese and there were snags." Ithaca J., June 26, 1985, at 16, col. 3.

We employ assistants to teach weekly small sections of about twenty-five undergraduates each. The assistants are compensated with either two hours of academic credit or a salary commensurate with a research assistant's position, at their option. In the small sections, the assistants review some of the material covered in the large class and also introduce new material. (Although we would prefer to teach the new material ourselves, classroom time is insufficient.) In our experience, all the teaching assistants have performed successfully. We occasionally observe section meetings and generally find that the teaching performances are remarkably similar to "real" law teachers with a few years of experience. The undergraduates seem to enjoy the more personalized instruction and informality possible in a small-class environment taught by someone who is almost a peer.[30] On teaching evaluations, the undergraduates uniformly give the assistants excellent reviews.

Our teaching assistants also help instruct the undergraduates on study methods and aid us in composing and grading exams, a practice not followed in law schools. We find that the assistants do a good job of grading. Because the assistants have helped formulate the questions, this is not surprising. To provide some structure and guidance, we prepare detailed grading sheets. After reviewing the results of the teaching assistants' grading over the past few years, we confess to an occasional yearning to suggest a similar grading strategy for our law school classes. When there are multiple readers, each only needs to grade one or two questions; thus, all can escape the eyestrain and hypnosis that assessing a mountain of bluebooks usually causes.

The undergraduates and the professors plainly benefit from the teaching assistants' effort. The assistants gain valuable experience as well. They must understand a body of material and organize and present it in a logical and precise manner.[31] The process "deepen[s] the student's scholarship and his intellectual resources by the process of discovering what it was he had learned which was useful to others in the culture."[32] The assistants develop their own oral advocacy and explanatory skills and can test their interest in teaching in general and law teaching in particular. Perhaps most important, the opportunity to teach others relieves some of the boredom brought on by the sameness of the second- and third-year law curriculum and permits assistants to make use of the knowledge they have acquired in law school.[33] As a final measure of success, law students have been eager to enlist for the task.

C. Special Aspects

With the opportunity to choose the choicest topics from the entire body of law, and with an audience of eager students, the introductory course

30. See Charles J. Averbook, Law Students Teaching Undergraduates: A Cornucopia of Opportunity, 24 J. Legal Educ. 473 (1972). On using teaching assistants in the first-year law curriculum, see the article by Jay Feinman in the current issue of the *Journal.* Jay Feinman, Teaching Assistants, 41 J. Legal Educ. 269 (1991).
31. See Averbook, *supra* note 30, at 476.
32. *Id.* (quoting Harold Taylor, Students Without Teachers: Crisis in the University 330 (New York, 1970)).
33. See *id.* at 477.

lends itself to special events, either during or outside class meetings. For instance, an evening movie series could be scheduled; screenings of films such as *The Verdict* could be followed by a panel discussion. Rather than attempt to cover the range of special events, which is limited only by the teacher's imagination and energy, we would like to add a few words of warning on beginning and ending the course.

1. Introducing the Course

The first few days of an undergraduate course present peculiar challenges. Unlike most law students, undergraduates typically do not come to the first class prepared. Nor do they come committed, as they are usually shopping among many courses.[34] If you can get them interested, however, undergraduates stay interested (also unlike many law students). The teacher therefore must create something special to do in that first class, something that gives students a feel for the subject and sets the stage for the course. We have settled on posing and discussing a problem that comes from current headlines and that involves first-amendment concerns. One year, drawing from close to home, we based the class on Cornell University's desire to stop student sit-ins protesting apartheid. Another year we stretched to the Israeli government's desire to stop Meir Kahane's planned visit to an Arab village to preach his anti-Arab fanaticism. Besides trying to grab the students' interest, we want to impress on them that their gut reaction is not always right and that they might be in sore need of further information. Then we begin, with some basic first-amendment doctrine, to inform them.

We send the students off with a handout that sets out the ground rules for the course; we even include an old examination to help students decide whether they want to stick with the course. Also included is a photocopy of the first reading assignment, the *Skokie* case.[35] Again, we want to let the students decide whether they want to take the course before they spend money on books.

The next two classes, which focus on *Skokie*, are designed to convey some common background on the legal system and to make the pedagogic point that the students must read and think carefully, critically, and actively. *Skokie* works well—it is neither musty nor dull. Indeed, the case remains

34. We are sensitive to such matters because we are limited by classroom size to about 150 students if we defer to the undergraduates' preference for holding the class in the law school. Although we find that the number of students who ultimately enroll in the course is about equal to the preregistration figure, there is substantial turnover during the first week of classes. While many drop the course, a roughly equivalent number of new students enroll.

    In addition to the usual "shopping around," some students perhaps decide on the basis of our admonitions about teaching methods. At the outset, we painstakingly explain orally and in writing our expectations: we demand class preparation, attendance, and participation; we call on students in class and evaluate their class performance for grading purposes. We suspect, therefore, that the students who elect to stick with the course are eager, talented, and competitive; indeed, far too many are interested in attending law school!

35. Village of Skokie v. National Socialist Party of America, 69 Ill. 2d 605, 373 N.E.2d 21 (1978) (Nazis' first-amendment right to demonstrate in Jewish community).

relevant and dramatic. (It has even generated a pretty good movie, entitled *Skokie,* starring Danny Kaye.) Undergraduates are generally familiar with and interested in the First Amendment but are often ignorant when it comes to doctrine and values. The case is engaging, in part because students seem naturally attracted to a result opposite to the court's. *Skokie* is complex and challenging, but the satisfaction of comprehension is within the reach of those who make a reasonable effort.

We are indeed so sold on *Skokie* that we have decided to use it for an interactive-video instructional program to teach beginners how to read and analyze cases. We shall draw on the structure of the first week of the undergraduate course and employ snippets of the *Skokie* movie to lead the beginner from the heading of the case to the construction of a brief embodying fairly sophisticated analysis and synthesis. We plan to make the program available to any of our students who wish to review the first classes. We also plan to explore other introduction-to-law uses for the program.

2. Evaluating Performance

A brief word on evaluation is in order. Some professors who have taught the undergraduate law course at Cornell have introduced innovations, such as essay assignments and take-home examinations. We, however, have settled on more traditional examinations. We give two open-book exams. Because the fifty-minute midterm is a novel experience for the students, it counts for only one quarter of the final grade. The final (two hours and twenty minutes) counts for three quarters of the final grade. We further reserve the right to adjust the composite exam grade slightly up or down to yield a course grade that better reflects the student's attendance and performance in class and in small section.

Our main insight on examinations is one that we have had trouble realizing. One needs to avoid constructing an examination that tests "thinking like a lawyer." The students are not in law school; rather they are undergraduates who should be tested directly on what they have learned in the course. So, put away the traditional hypothetical questions that test, say, issue spotting. Use instead questions that might be hypothetical in form but that test such things as diligence, comprehension, and synthesis. The result will be an examination that is fairer and sounder for undergraduates, and one that, incidentally, teaching assistants can grade more accurately.

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In conclusion and in answer to the question implicit in our title, law teachers should teach undergraduates because it is rewarding and satisfying without being too time-consuming. Introducing undergraduates to law benefits the law school and, even more, the students themselves. A general undergraduate course on law represents an opportunity to deliver good education.