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Chapter 5

IMPLEMENTING EFFECTIVE EDUCATION IN SPECIFIC CONTEXTS

A. THE SOCRATIC METHOD

By Elizabeth G. Porter¹

1. Introduction

The Socratic method, one of Langdell's most well-entrenched reforms to legal education, remains the law's signature pedagogical technique.² Although the term means different things to different people, its essence in the law school classroom is student analysis of cases led by a teacher, who calls on students to articulate gradually deeper understandings of a legal doctrine or theory.³ Socratic learning requires students to think on the spot, answer precisely, and take intellectual risks. For over a decade now, the Socratic method has been out of fashion among those who write about legal pedagogy.⁴ In addition, the method's critics describe what they view as the alienation and humiliation of students, an inattention to legal theory and professionalism, and a lack of clear learning outcomes.⁵ Indeed, both BEST PRACTICES FOR LEGAL EDUCATION and EDUCATING LAWYERS criticized or downplayed the value of the

¹ Readers for this section were Phyllis Goldfarb and David Herring.

² See Bruce A. Kimball & Blake Brown, "The Highest Ability in the Nation": Langdell on Wall Street, 1855-1870, 29 LAW & SOC. INQUIRY 39 (2004) (characterizing Langdell as "arguably the most influential figure in the history of legal education in the United States" and describing his many legal reforms, including "the admission requirement of a bachelor's degree, the graded and sequential curriculum, the hurdle of annual examinations for continuation and graduation, the independent career track for faculty members, the transformation of the library . . . into a scholarly resource, and the inductive pedagogy of teaching from cases"); see also WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 47 (2007) (describing case dialogue method as law's "signature pedagogy" and noting that "[t]he legal case method, in all its variations, has dominated the first year of most legal education through much of the past century") [hereinafter CARNEGIE REPORT]; Steven I. Friedland, *How We Teach: A Survey of Teaching Techniques in American Law Schools*, 20 SEATTLE U. L. REV. 1, 28 (1996) (summarizing survey finding that at least 98% of law teachers use the Socratic method in their first year classes) [hereinafter Friedland, *How We Teach*].

³ See ROY STUCKEY AND OTHERS, BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROAD MAP (2007) [hereinafter BEST PRACTICES], text at note 623 (quoting Peggy Cooper Davis & Elizabeth Ehrenfest Steinglass, *A Dialogue About Socratic Teaching*, 23 N.Y.U. REV. L. & SOC. CHANGE 249, 261-64 (1997)).

⁴ See, e.g., Judith Welch Wegner, *Reframing Legal Education's "Wicked Problems"*, 61 RUTGERS L. REV. 867, 882 (2009) (observing that "the 'Socratic method' has been cast as a 'bête noir' within legal education").

⁵ See, e.g., BEST PRACTICES, text at note 630.

Socratic method. BEST PRACTICES concluded that the Socratic method should be “used sparingly.”⁶

These critiques undervalue the Socratic method. As the CARNEGIE REPORT acknowledged, the Socratic method is an easily scalable, effective, deeply engaging way to achieve active student learning, particularly but not only in larger doctrinal classes.⁷ Similarly, BEST PRACTICES recognized that “[t]ailored and applied flexibly, the case method . . . can provide a logical, overall methodology for approaching and thinking about all sorts of situations.”⁸ Those positive findings remain true. The Socratic method gives students a strong incentive to prepare well for class every day, and during class it forces both students and the teacher to focus intensely, to listen to others, and to express their ideas in a cogent, persuasive, and professional manner. These qualities — thorough preparation, focus, listening skills, cogent analysis, and good judgment — are fundamental to successful lawyering. Finally, contrary to its reputation, the Socratic method is also a wonderful way to create a sense of community and shared learning purpose among students, even in a large class.

These attributes of Socratic teaching look even stronger in comparison with the most commonly used alternative — lectures, perhaps punctuated by text-heavy PowerPoint slides.⁹ Indeed, while the method has fallen from favor in law schools, cutting-edge colleges are now seeking to expand Socratic-type interactive teaching in order to raise the level of engagement among students.¹⁰ In recognition of the continuing centrality and vitality of the Socratic method, this section therefore focuses on best practices for optimizing the effectiveness of this active learning style.

The basics of the Socratic method are well described elsewhere (and will have been experienced by almost all readers of this volume).¹¹ Therefore, this section will not describe the methodology in detail. Instead, it will situate the Socratic method within a framework describing the level of active learning of the most frequently used pedagogical techniques in the non-clinical law school classroom. Then it will focus on three fundamental tools for creating and maintaining a successful course that uses the Socratic method for active learning.

⁶ *Id.* at 206.

⁷ CARNEGIE REPORT at 74-75 (finding that “[t]he case-dialogue method is a potent form of learning-by-doing. . . . It encourages, at least for skillful teachers, the use of all the basic features of cognitive apprenticeship. It seems well suited to train students in the analytical thinking required for success in law school and legal practice.”).

⁸ BEST PRACTICES, text at note 626.

⁹ *See, e.g.*, Friedland, *How We Teach*, at 29 (stating that 419 out of 445 survey respondents lecture at some point during upper-level courses, and sixteen percent “used lecture most of the time in upper-level courses”).

¹⁰ *See* Graeme Wood, *The Future of College?*, THE ATLANTIC (Aug. 13, 2014), <http://www.theatlantic.com/features/archive/2014/08/the-future-of-college/375071>, archived at <http://perma.cc/4QD6-HDKV> (describing participating in a sample class for the new online-based college, the Minerva Project, where the teacher “led the class like a benevolent dictator,” subjecting students to pop-quizzes and cold calls — “a continuous period of forced engagement”); *see also* Scott Freeman et al., *Active Learning Increases Student Performance in Science, Engineering, and Mathematics*, Proceedings of the National Academy of Sciences, June 10, 2014 (meta-analysis of over 200 studies of active learning finding an average 6% gain in student performance in undergraduate STEM courses using forms of active learning in comparison with straight lecture).

¹¹ *See, e.g.*, BEST PRACTICES, text at notes 622-651.

2. The Socratic Method and Active Learning: Rates of Perceived (Mental) Exertion

Participants in physical activity are often asked to assess their activities according to a scale that rates perceived physical exertion (the “RPE scale”).¹² The scales vary — some are from 1-10, some from 1-20, etc. — but the principle remains the same: At the lower end of the scale, participants are not exerting themselves very much; in the middle ranges they are pushing themselves and making fitness improvements; and at the very top of the scale, participants are working to the point of immediate exhaustion.¹³ Although the RPE scale is subjective, it nevertheless provides a simple but relatively accurate measure of the effort of an exercise participant to optimize performance goals without overdoing it. This rating system can be adapted to allow instructors to easily assess the level of active learning in their law school classroom. For simplicity, this discussion uses a 1-4 scale to measure students’ Rate of Perceived (Mental) Exertion.

a. Passive Learning — Lecture

A rating of 1 on the RPE scale indicates minimal exertion. Physically, this would correspond to sitting passively in a chair or walking a short distance very slowly. In the law school classroom the “1” is a lecture, combined with passive absorption of Power Point slides. In courses where students are only expected to participate on certain days — the so-called “panel” participation or “expert” system — students who are not on that day’s panel may be exerting themselves only at a level 1. In the modern law school classroom, students who are asked to push themselves only to level 1 may opt instead to check email or shop for shoes. They will defer studying until before exams, using their time to prepare for courses where a thorough knowledge of the material will matter the next day.

b. Moderate Learning — Soft Socratic/Partial Lecture

A rating of 2 indicates some mental exertion — a moderate challenge. Physically, this might involve brisk walking or a very light jog, during which the participant could still carry on an easy conversation. In the law school classroom, a level 2 corresponds to a soft Socratic environment, where occasionally the teacher calls on students but typically she takes volunteers, and where the stakes to answering correctly are perceived by students as relatively low. Another example of Level 2 is what may be termed a “false Socratic” class, where the teacher uses the Socratic method to elicit the facts of the case but then has a pattern of lecturing on the significance of the facts

¹² In the context of physical activity, the perceived exertion scale was first described by Gunnar Borg, and is sometimes referred to as the “Borg Scale.” See generally GUNNAR BORG, BORG’S PERCEIVED EXERTION AND PAIN SCALES (1998).

¹³ See, e.g., Perceived Exertion (Borg Rating of Perceived Exertion Scale), CENTERS FOR DISEASE CONTROL & PREVENTION, <http://www.cdc.gov/physicalactivity/everyone/measuring/exertion.html>, archived at <http://perma.cc/AZ3K-GKJV> (describing a scale from 6-20, where 6 is “no exertion at all” and 20 is “maximal exertion”); Rated Perceived Exertion (RPE) Scale, CLEVELAND CLINIC, <http://my.clevelandclinic.org/heart/prevention/exercise/rpe-scale.aspx>, archived at <http://perma.cc/DZ8A-XRPV> (using a 0-10 scale, with 0 being “nothing at all,” 7 being “very heavy,” and 10 “very, very heavy”).

to the holding of the case and the broader legal doctrine. In this type of class, focused students who are fearlessly enjoying law school may learn extremely well, but students who are unenthusiastic or apprehensive about course material, or are unable to resist the lure of the Internet, may stop engaging during class and lose many of the benefits of active classroom learning.

c. Active Learning — The Socratic Method

The heartland of the Socratic method is level 3. In the realm of physical exertion, level 3 involves strenuous and uncomfortable exercise, such as a fast jog or heavy weight lifting, to the point where participants tire quickly and cannot maintain a conversation. Physically this level of exertion is uncomfortable, but it will pay off with enhanced fitness and — more immediately — with endorphins. Analogously, in a successful Socratic course the vast majority of students will spend a significant portion of each class thinking and processing information at this intense, slightly overwhelming, level. At the end of class they will feel a well-earned sense of accomplishment. Explaining the active Socratic method to students in advance can help ensure that the stress created by this rapid learning pace remains manageable and consistent with the goal of humanizing legal education.¹⁴ Other forms of Level 3 learning include writing exercises or group work that involves creation of a deliverable, such as a document or a presentation.

d. The Sprint — Exams

The top of the RPE scale is for very hard exercise that can only be sustained for a short time — performance that causes severe stress and discomfort. In the educational realm, this is the equivalent of an exam, which involves a high degree of stress. Students cannot successfully maintain this level of learning on a daily basis in class. However, occasional “sprint” moments, such as timed in-class writing assignments or practice exams, can be powerful learning tools.

3. Achieving Level 3: The Successful Socratic Class

This section focuses on three primary ways to optimize the Socratic method in order to achieve the most productive learning — and the most satisfied students. The goal is to maintain students at a level three on the RPE scale, without either slowing down to the pace of a lecture or — more unusually — pressing students to the point where they feel the tension associated with an exam. The essential ingredients to maintaining this balance are organization, respect, and high expectations.

a. Establish and Maintain a Classroom Community

Many of the criticisms of the Socratic method center on the concept of the teacher as a disdainful figure who lords his superior knowledge over students.¹⁵ Indeed, BEST PRACTICES lists as a best practice, “Do not intentionally humiliate or embarrass

¹⁴ See Chapter 4, Section B, Subsection 1, *Humanizing the Delivery of Legal Education*, above.

¹⁵ See, e.g., Susan Sturm & Lani Guinier, *The Law School Matrix: Reforming Legal Education in a*

students” — a remarkably low bar that demonstrates the deep skepticism that many scholars of legal pedagogy have of the Socratic method.¹⁶ In practice, most law school instructors care about student evaluations and, therefore, have more than ample incentive to avoid disrespecting students.¹⁷ But even if a few instructors are disrespectful, the principle of refraining from intentional harm is unhelpful to most teachers as a best practice. A vast divide exists between not humiliating students and creating an exhilarating classroom environment using the Socratic method. The easiest way to bridge that gap is to consciously create a sense of camaraderie and respect among the students and between the students and the teacher. While fostering a sense of community will likely enhance all forms of learning — just as humiliating students is likely to ruin most classes — it is particularly helpful to Socratic classes, where the key to learning is getting students to trust that their own contributions as well as those of their peers — and not only the words of their teacher — are significant and helpful. A successful Socratic community is collegial and risk-taking.

There are three key requirements for creating such a community. The first is a high level of organization and class management by the teacher (discussed in more detail in Section b, below). The students should have a clear sense — from the syllabus, from the teacher’s explanation, and from the class itself — of the teacher’s expectations of students and the benefits that will accrue from enthusiastic participation in a course. Each class should reinforce those expectations and demonstrate those benefits. If a class’s ostensibly Socratic format declines into mostly lectures, students will lower their preparation for class accordingly; if the only learning goal is “coverage,” student motivation will wane. Similarly, if the teacher allows certain students to derail a class by repeatedly asking tangential questions — a sign that the teacher lacks clear goals for the lesson — students will lessen their commitment. Behind many failed Socratic classes lies inadequate organization. At the same time, too much organization will kill the spontaneity of the class. Classroom discussion “should be collaborative and open-ended, alive with serendipity and the energy of imminent discovery — a model . . . of how to think *together*.”¹⁸

Culture of Competition and Conformity, 60 VAND. L. REV. 515, 520 (2007) (describing “the primary way students learn — in class through questioning by professors in the presence of peers, when students perceive they have either won or lost the interaction”); DEBORAH RHODE, IN THE INTEREST OF JUSTICE 197 (2000) (“Under conventional Socratic approaches, the professor controls the dialogue, invites the student to ‘guess what I’m thinking,’ and then inevitably finds the response lacking. The result is a climate in which ‘never is heard an encouraging word and . . . thoughts remain cloudy all day.’”).

¹⁶ As one commentator has noted, however, “much of the harm attributed to Socratic dialogue is misguided and is in fact a critique of bad teaching technique rather than any flaw intrinsic in Socratic dialogue.” Gary Shaw, *A Heretical View of Teaching: A Contrarian Looks at Teaching, the Carnegie Report, and Best Practices*, 28 TOURO L. REV. 1239, 1242 (2012) [hereinafter Shaw, *Heretical View*].

¹⁷ This is not to say that student evaluations are unimpeachable measures of teaching quality. See, e.g., Maria Pabon Lopez & Kevin R. Johnson, *Presumed Incompetent: Important Lessons for University Leaders on the Professional Lives of Women Faculty of Color*, 29 BERKELEY J. GENDER L. & JUST. 388, 390 (2014) (arguing that “[b]lind reliance on student teaching evaluations will have disparate impacts on faculty of color and women”).

¹⁸ See WILLIAM DERESIEWICZ, EXCELLENT SHEEP: THE MISEDUCATION OF THE AMERICAN ELITE AND THE WAY TO A MEANINGFUL LIFE 176 (2014).

The second key to community formation is — ironically — seeing students as individuals. This does not require a heart-to-heart with each student outside of class, nor does it require inviting students over for a gourmet dinner. It simply requires teaching in a way that shows awareness that students have complex identities — that while they might be novices at law, they have other life experiences and knowledge that can be enormously valuable to a class discussion and to legal practice. One way to quickly begin this process is to learn students' names immediately, and to find out a bit about their background, legal interests, and their passions outside of the law, and incorporate that knowledge into the questioning.¹⁹ If a case takes place in Nebraska, call on the Nebraskan. Ask hunting enthusiasts about hunting, and journalists about the newspaper case. Usually it's not a question of expertise; it's just a message to students that the teacher knows them and respects their insights and experiences.

Getting to know students takes much less time than it might seem, even in large classes, but it does require a genuine commitment to mentoring, and mentors will create relationships with students that extend beyond the classroom and even beyond law school. Meanwhile, inside the classroom, a focus on students as individuals can also help teachers to work with the few students who are most reluctant to participate in class. Similarly, the strong focus on collegiality can preempt personal conflicts that might otherwise arise between students during discussion of controversial topics.

The final ingredient for a successful class is the teacher's full presence during class. If the teacher is honestly enjoying the class (which is difficult to do without thorough preparation), the students will, too.

The benefits that flow from a happy and functioning Socratic community are more than worth the time and effort required to create it. Within the safety of such an environment, almost all students will be willing to speak out not only to answer factual questions, but also to risk analyzing difficult or controversial hypotheticals. To be sure, many students will remain nervous when called on, but they will emerge from those difficult moments with a sense of accomplishment (even, ironically, if they give an incorrect answer). In a highly functioning classroom community, professionalism will be an integral aspect of the learning process: Students will be respectful of each other and of the teacher — listening, declining to monopolize, and engaging respectfully in disagreement.

b. Choreograph the Class

In order to keep students learning at a rapid and slightly uncomfortable pace (an RPE of 3 for as much of each class as is reasonably possible) — and to overcome natural resistance to this intensity — Socratic classes require tight choreography. The term choreography conveys preparation of content, theme, and structure. A traditional criticism of the Socratic method is that students will be intimidated to the point that they will be unable to process basic information about a subject, never mind advanced

¹⁹ See BEST PRACTICES, text at note 657 (quoting GERALD F. HESS & STEVEN I. FRIEDLAND, TECHNIQUES FOR TEACHING LAW 199 (1999) for the proposition that “the single most important step that a teacher can take to improve the classroom environment is to learn students' names”).

concepts.²⁰ Feminists have argued that women in particular suffer from such alienation.²¹ In much contemporary use of the Socratic method, the real danger lies in the other direction. If teachers have only superficially organized their classes — for example, by skimming the cases or re-reading their lecture notes from past years but not taking the time to establish detailed learning goals or compile relevant hypotheticals — the Socratic dialogue peters out after a few moments, dissolving into lecture (on the one hand) or spinning off into untethered discussion (on the other). The myth of the Socratic method is terror; the true danger is tedium.

To maintain a high learning pace using the Socratic method alone or in combination with other pedagogical techniques, it is helpful to map out classes with a fairly high degree of specificity, while allowing room for variation based on what emerges during class. The teacher should prepare more hypotheticals than will be used, so that if one does not seem effective, it is easy to move on. For all but the most seasoned teachers, formality also helps. Set a warm but no-nonsense tone: this is a separate space dedicated to intense focus on clear and relevant goals. Each person will have her own preference as to design, but as an example, a 110-minute class might follow this approximate pattern:

Warm-up, at RPE 1-2: Review “top 5” concepts from the previous class (10-15 min.). This review may be a straightforward summary using Power Point, it may involve small group exercises (for example, students may spend 5-10 min. on a joinder problem), or it may be a Socratic review using hypotheticals. A short written quiz is even more effective. The warm-up provides both students and the teacher an easy way to assess whether students have been following the material. It’s also helpful to reach back several days or weeks into the material, to reinforce earlier learning and to help forge connections between what students might otherwise view as discrete, unrelated topics.

Setting the goal(s), at RPE 2 (5 min.): Call on students to identify primary learning goals for the day’s class. Try to get the students to describe the essence of the material they read for that class in general terms but with a fair degree of specificity — e.g., not simply “supplemental jurisdiction” but “the way that § 1367(b) affects joinder of supplemental claims in diversity suits.” Where feasible, ask the students to connect this theme to the “Top 5” of the previous class.

Learning the concept, at RPE 3 (60 min., not including a 10-min. break): Use Socratic method to analyze new course material. Where appropriate, use PowerPoint or a whiteboard for visual supplements — diagrams, images, etc., that will assist students in understanding each case. Test learning with simple (one-step) hypotheticals. Use PowerPoint slides for hypotheticals, providing a

²⁰ See BEST PRACTICES, text at note 630.

²¹ See Carrie Menkel-Meadow, *Women’s Ways of Knowing Law: Feminist Legal Epistemology, Pedagogy, and Jurisprudence*, in NANCY GOLDBERGER ET AL., KNOWLEDGE, DIFFERENCE, AND POWER: ESSAYS INSPIRED BY WOMEN’S WAYS OF KNOWING 57 (1996) (discussing alienation in traditional large Socratic classrooms and offering insights about pedagogical approaches with insights from feminist theory). A focus on community and mentorship rather than hierarchy in Socratic classes should alleviate many of these concerns.

minute of reading and thought before asking for student responses. For example, if the material teaches battery, ask a series of hypotheticals aimed at uncovering the basic elements of a battery claim. Then use two-step hypotheticals to get students to understand more complex issues, such as transferred intent, the purposes of compensating battery victims in tort, or the relationship between battery and assault.

Advanced practice (RPE 2-3) (remaining time, up to 20 min.): Time permitting, finish the class with a series of more complex hypotheticals — ideally hypotheticals that bring out two or more issues from that day and/or from previous classes (RPE 3). Just as with the warm-up, use questions on current material to reinforce past material, or ask some questions that focus solely on past material. Other options: individual writing exercises (RPE 3), or small group discussion of a problem (RPE 2).²²

Conclusion (1 min.) (RPE 1): Conclude by reiterating the major themes of the class (connecting them, if possible, to insightful student comments) and briefly stating how they relate to the next class.

Note, however, that both the substance and the structure of classes can and should change over time, as students become more advanced, and thus, more quickly able to enter a legal discussion at a deeper level. Notwithstanding the doctrinal nature of the examples, the Socratic method can be effective in addressing the social, political, and access to justice context of cases or other material. The call-and-response nature of this pedagogy is flexible with regard to content. Regardless of content, classes should be organized to keep students learning at a fast — indeed, slightly uncomfortable — pace. As one commentator explains in his recent defense of the Socratic method:

What is crucial to realize is that as students master the skills, good faculty continue to push them to new limits. The depth to which one explores a case with first week law students, as well as the emphasis the teacher puts on various aspects of the case, must inevitably differ from the depth and emphasis that the teacher concentrates on later in the semester, as well as the progression through the entire first year. As students' mastery of legal analysis improves, faculty start reaching for more complex analyses of the law as well as introducing new skill sets. To characterize the Socratic dialogue as repeatedly leading students through a highly routinized set of analytical rules and distinctions either describes a poor teacher or misdescribes the process of learning that takes place under Socratic Method. Not only is there nothing in

²² The results of some small scale empirical studies suggest that integrating writing exercises into traditional first year classes may enhance the learning of analytical skills. See David J. Herring & Collin Lynch, *Teaching Skills of Legal Analysis: Does the Emperor Have Any Clothes?*, 18 *LEGAL WRITING: J. LEGAL WRITING INST.* 85 (2012); David J. Herring & Collin Lynch, *Enhancing Traditional Law Teaching to Produce Measurable Gains*, 19 *LEGAL WRITING: J. LEGAL WRITING INST.* (forthcoming) (U. of Pittsburgh Legal Studies Research Paper No. 2012-16, 2012), available at <http://ssrn.com/abstract=2084345>, archived at <http://perma.cc/L573-8X2S>; David J. Herring & Collin Lynch, *Measuring Law Student Learning Outcomes: 2013 Lawyering Course* (January 23, 2014) (UNM School of Law Research Paper No. 2014-09), available at SSRN: <http://ssrn.com/abstract=2387855>, archived at <http://perma.cc/Z69Y-JXMG> or <http://dx.doi.org/10.2139/ssrn.2387855>, archived at <http://perma.cc/4QK2-978C>.

the Socratic dialogue that requires routinization, the need for thoughtful faculty to monitor and recognize their students' progress precludes such a routinization.²³

c. Involve all Students

Some skeptics of the Socratic method express concern that students other than the poor victim being called on by the teacher will be sitting passively, bathed in relief at having escaped notice, and not listening to the contribution of their classmates.²⁴ But that problem is easily solved by involving many people in each dialogue, as Langdell himself appears to have done.²⁵ In fact, one of the great advantages of a Socratic class is regular and universal (or near-universal) participation.

To involve as many students as possible, try calling on two students together. For example, ask one student to state the facts from the plaintiff's viewpoint, and another to state them from the viewpoint of the defendant. Perhaps a different student can be the judge. Ask someone else to represent the viewpoint of the physician witness. When students are prepared, many cases can become instant role-plays within the broad confines of Socratic questioning, and students gain a lot from having to answer from a point of view other than the one with which they first identify. For very complex cases, or those with significant embedded cases, call on multiple students and allow them to consult briefly if necessary on key points. Consistently ask students to respond to each other's comments. When a student is imperfectly prepared or seems overly flustered, move on to others. But if a student merely gives an incorrect response, but seems prepared, think out loud with the student or ask others to give the student a hint to clarify the answer. Or even let the student "ask the audience," in the style of *Who Wants to Be a Millionaire*. A helpful goal is to get more than half the class to participate on a given day.

Two final notes. First, many law schools now podcast their courses, and not all classroom microphones pick up student comments. If the course truly depends on student input, this is a big disadvantage for those who wish to review the podcast. It can be fixed by the somewhat awkward device of repeating important student questions or comments. Second, it is important to use the Socratic class to give real and valuable feedback to students about the wisdom of their responses. Be positive and encouraging, but honest. Sometimes there are many right answers — but not always. If students do not feel that they can use class time to discern better answers from worse ones — if anything goes — they will lose faith in the integrity of the process.

²³ Shaw, *Heretical View*, at 1262.

²⁴ See Paul L. Caron & Rafael Gely, *Taking Back the Law School Classroom: Using Technology to Foster Active Student Learning*, J. LEGAL EDUC. 551, 554-55 (2004) ("Under the Socratic method, the typical classroom interaction is a one-on-one dialog between the teacher and one student. Except for the student who happens to be sitting on the hot seat, no one else actively participates in the dialog.").

²⁵ See BEST PRACTICES, text at note 623 (quoting Langdell calling on one student, and then asking another student to agree or disagree with the first student's response).

4. Conclusion

Law schools are in an era of pedagogical reform. As one scholar has noted, “[h]ere we are, at the beginning of the twenty-first century, using a model of legal education that was developed in the latter part of the nineteenth.”²⁶ The two volumes of *BEST PRACTICES* are an attempt to bring legal pedagogy into the twenty-first century, recognizing the huge transformations in our legal structures and in the tasks that lawyers are required to perform. Pedagogical diversity serves important values. Yet law teachers should not be too quick to sideline the Socratic method, which has proven resilient and can be adapted to achieve a range of learning goals. And the most common alternative to the Socratic classroom — lecture — does not develop the skills law students today need. In tandem with other forms of now-mainstream law school learning, including the common forms of experiential courses — theory and practice simulation skills courses, clinics, and externships — the Socratic method remains a valuable element of the law teacher’s toolbox.

²⁶ Edward Rubin, *What’s Wrong With Langdell’s Method, and What To Do About It*, 60 *VAND. L. REV.* 609, 610 (2007).