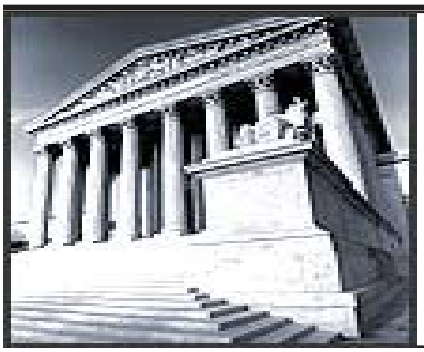

LAW AND COURTS

NEWSLETTER OF THE LAW AND COURTS SECTION OF THE AMERICAN POLITICAL SCIENCE ASSOCIATION

SPRING 2001

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FROM THE SECTION CHAIR

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Close to eleven years ago, an Ad Hoc Committee on the Status of the Courts, Law and Judicial Process Organized Section (as we were called then) issued its report to our membership. Chaired by Austin Sarat and with committee members Greg Caldeira, Timothy ONeill, and Kim Lane Sheppele, the committee had been given the charge "to explore divisions within the section and to determine whether there is systematic exclusion or underrepresentation of some groups within the Section because of their methodological or theoretical perspectives in such things as participation on the main APSA program or service in Association or Section leadership positions." The committee additionally had the charge to assess "whether political scientists who study law/and or courts are 'marginalized in the discipline'." The committee studied the programs of APSA annual meetings to try to discern patterns of participation. Committee members also interviewed colleagues both in and out of the law and courts subfield.

In its report to the membership, the committee noted the great diversity of scholarly interests within the law and courts community, observed the problem of communication among colleagues who specialize in different aspects of law and courts, and found that while most respondents did not see systematic exclusion of one or another wings of the subfield, others did. But the committee concluded that "there is not currently a crisis in representation of our present diversity at the APSA meetings" but expressed concern that "there may be such a crisis in the future." The committee went on to consider a number of other concerns related to its charges and made numerous recommendations.

Last Fall it became clear, particularly through the discussion on the newsgroup (before the election imbroglio and the *Bush v. Gore* decision took over discussion) that some colleagues doing law and society research feel marginalized by our section. It seemed appropriate to revisit some of the territory covered more than a decade earlier by the Sarat committee. More specifically, and following up on a suggestion made to me by Michael McCann, it seemed to make sense to consider whether it would be desirable and feasible to establish institutional links with the Law and Society Association. With the consent of the Section's Executive Committee, I appointed an Exploratory Committee on Relations with the Law and Society Association. Malcolm Feeley agreed to serve as chair and serving with him are Stephen Bragaw, Maria Cuzzo, Chuck Epp, Michael McCann, and Helena Silverstein. The committee may also examine the issue of whether the full scope of our section's diversity is being adequately represented. The committee is in the process of data gathering and will be offering its report and recommendations to the Executive Committee for consideration at its

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Instructions to Contributors

General Information

Law and Courts publishes articles, notes, news items, announcements, commentaries, and features of interest to members of the Law and Courts Section of the APSA. **Law and Courts** is published three times a year in Winter, Spring, and Summer. Deadlines for submission of materials are: November 1 (Winter), March 1 (Spring), and July 1 (Summer). Contributions to **Law and Courts** should be sent to:

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Articles, Notes, and Commentary

We will be glad to consider brief articles and notes concerning matters of interest to readers of **Law and Courts.** Research findings, teaching innovations, or commentary on developments in the field are encouraged.

Footnote and reference style should follow that of the *American Political Science Review.* Please submit two copies of the manuscript; enclose a diskette containing the contents of the submission; provide a description of the disk's format (for example, DOS, MAC) and of the word processing package used (for example, WORD, Wordperfect). For manuscripts submitted via electronic mail, please use ASCII or Rich Text Format (RTF).

Symposia

Collections of related articles or notes are especially welcome. Please contact the Editor if you have ideas for symposia or if you are interested in editing a collection of common articles. Symposia submissions should follow the guidelines for other manuscripts.

Announcements

Announcements and section news will be included in **Law and Courts**, as well as information regarding upcoming conferences. Organizers of panels are encouraged to inform the Editor so that papers and participants may be reported. Developments in the field such as fellowships, grants, and awards will be announced when posible. Finally, authors should notify *Helena Silverstein* at silversh@mail.lafayette.edu, of publication of manuscripts.

Erratum: In the Winter 2000 issue of the Newsletter on page 3 Richard Brisbin, Jr. was improperly spelled as Richard Brisbane. In addition, on page 26 the institutional affiliations for Lynn Mather, Dartmouth College, and Charles Epp, University of Kansas, were inadvertently omitted. The editor regrets these errors.

next formal meeting in San Francisco. I anticipate that a summary will be published in the newsletter and that the full report will be available to the membership on the section's website.

In other section news, I am happy to announce that Martin Shapiro has been selected by the Lifetime Achievement Award Committee to receive our section's most prestigious honor. The award will be presented at a special panel to be held on Friday, August 31, at 3:30, the time slot before the annual business meeting. On behalf of the section, I would like to thank committee chair Marie Provine, and members Gary Jacobsohn, Charles Johnson, Bruce Murphy, and Jennifer Segal for their fine work.

Thanks to the efforts last year of John Paul Ryan and Lee Epstein, it seems likely that the American Bar Association will be sponsoring a new Teaching Award. I have been in contact with the ABA and the proposal for sponsoring the award, which already has the approval of an ABA committee, will come before their Board of Governors in April. If approved, the first award will be given at the 2002 business meeting of our section. Nominations will be solicited from the membership of our Section and the selection committee will be asked to evaluate nominees as to the strength of the evidence concerning innovative teaching and instructional methods and materials. The supporting materials for each nominee will be evaluated by the selection committee and these materials may include (but not be limited to) testimonials from present and past students, class teaching evaluations, and/or testimonials from political science professors as to the pedagogical usefulness of the nominee's contribution (e.g., website, text, classroom techniques). If all goes as anticipated, the section will at long last fill in a major gap in our awards roster. As with all but the Lifetime Achievement Award, this will be a cash award.

I have established a Teaching and Mentoring Committee and Barbara Perry has agreed to serve as chair. Her committee consists of John Brigham and Roger Hartley. This committee will be making recommendations as to how the section can foster mentoring between younger and more established (professionally) section members. Assuming ABA sponsorship of the Teaching Award, future committees will also constitute the selection committee.

As mentioned in the previous newsletter, Richard Brisbin, who has done a superb job as editor of the Law and Politics Book Review, will be stepping down at the end of the next academic year. The search committee for a new editor is chaired by Mark Graber and committee members are Sally Kenney and Dick Brisbin. Members are invited now to volunteer for the editorship or to nominate others. The Review is such a vital part of our section's life, those willing to consider undertaking this task shall surely be candidates for law and courts sainthood.

Neal Tate, who this year is Chair-Elect, submitted on behalf of the section a short course proposal on comparative judicial systems and politics. We expect that the course will be accommodated by the APSA and will alert the membership via the listserve, website, and the summer newsletter once we know the details. On behalf of the Section I would like to thank Neal for his efforts.

Some special accomplishments of our members have come to my attention. Nancy Maveety is the author of a recently published novel, a satire on academia. Scott Gerber is the author of a new mystery also set in academia. This calls to mind Walter Murphy's accomplishments in the world of fiction — his wonderful novel "The Vicar of Christ," with its devastating and delicious portrait (thinly disguised) of Felix Frankfurter and his two other well-regarded novels "Upon This Rock" and "The Roman Enigma." We are a Section with many creative talents (indeed, years ago some of our antagonists attacked our writing on law and courts as fiction). I would like to invite published writers of fiction and poetry to being their work for an informal display during the reception following the business meeting. Many of us would enjoy thumbing through novels or poetry written by friends and colleagues.

Finally, I want to extend congratulations to Austin Sarat who has taken over as president of the Association for the Study of Law, Culture and the Humanities.

This issue should be reaching you as we are well into Spring. I would like to wish all of you a good end of the semester and a productive and enjoyable Summer.

BRINGING THE COURT INTO THE UNDERGRADUATE CLASSROOM: APPELLATE SIMULATION IN AMERICAN COLLEGES

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Simulations of the appellate court proceedings—also known as "moot court" and "mock Supreme Court"—are widely utilized around the world in legal education (Knerr and Sommerman, 2001, 2000). Inter-collegiate tournaments are currently conducted in many European countries, including Denmark, Norway, Finland and Sweden (Sundberg, 1997), and in Asia, Australia, New Zealand, and Canada, among other areas of the world. Moot court has reportedly been a feature of the legal education landscape for hundreds of years, with origins in pre-medieval England (Rachid and Knerr, 2000; Lynch, 1996; Martineau, 1989, 1985).

Moot court is apparently required in all American law schools. Tournaments are regularly conducted on a variety of legal issues—communication law, environmental law, the First Amendment, mass media law, and so forth. A rich body of commentary on law school moot court exists (Darby, 2000; Almond, 1998; Hernandez, 1998; Greene, 1998; Kozinski, 1997; Rychlak, 1997; Martineau, 1989, 1987, 1985, 1981; Gaubatz, 1981; Low, 1993; McCarter, 1983; Levine, 1976; Cady, 1967). However, no known empirical work has been performed that exhaustively examines the costs and benefits of American law school moot court for participants.

American undergraduate appellate simulation is not as well known as the law school form of moot court. A body of literature has emerged in recent years, primarily written by law faculty, describing their personal classroom approach to appellate simulation. (Knerr and Sommerman, 2001; Deardorff and Aliotta, 2000; Weaver, 2000; Curran, Takata, and Acone, 2000; Knerr, 2000; Carlson and Skaggs, 2000; Smith, 1999; Dhooge, 1999; Hensley, 1994; Collins and Rogoff, 1991; Guliuzza, 1991; Lenchner, 1989; Claude and Parker, 1984; Cooper, 1983; Collins, 1983; Whitaker, 1973). Although no known empirical study has been conducted which systematically evaluates the costs and benefits of American undergraduate moot court, Australian faculty have generated interesting data regarding the value of undergraduate moot court "down under." (Lynch, 1996; Keyes and Whincop, 1997).

In the fall of 1999, an investigation into the scope, extent and variation of American undergraduate moot court was initiated by the authors. Internet searches, library based searches, and "networking" were the primary search methods. Nearly two hundred American faculty in a number of academic disciplines were identified as being involved in some aspect of undergraduate appellate simulation. Over one hundred fifty faculty forwarded syllabi or offered additional commentary.

The survey revealed that two forms of undergraduate appellate simulation are frequently found in American colleges: "*scholastic simulation*"— in which students of a single undergraduate class, such as Constitutional, International, or Business Law, or a Communications/Speech class (among other academic subjects), are required to participate as a condition of successfully completing that class. The second form is the *undergraduate moot court tournament* — in which teams of undergraduate students voluntarily compete for trophies or other personal rewards.

Scholastic Simulations

Great variation can be noted in the conduct of over one hundred scholastic simulations examined by the authors through the acquisition of syllabi and through electronic and "snail" mail exchanges with instructors. The majority of faculty organizing scholastic undergraduate simulations require students to assume either the role of an attorney or a Supreme Court judge. A few faculty create additional simulation roles: law clerks, reporters or *amicus* brief writers. Although some faculty permit choice of roles, other faculty assign specific roles in their simulations. Some invite local attorneys or local judges to serve as judges for their scholastic moots. For example, Barbara Baudot of Saint Anselem College conducts her scholastic moots in the chambers of the New Hampshire State Supreme Court with actual justices presiding. In another interesting, possibly unique variation, Kerry Hunter of Albertson's College (Idaho) requires his students to serve as "Supreme Court Justices," and invites local attorneys or judges - even justices of the Idaho Supreme Court - to argue a case before his "Court."

Some faculty require written briefs (or a written opinion for those serving as "judges") and oral argument of the student "attorneys." Other faculty require only oratory. Variation can also be noted in regard to the case: some faculty using

scholastic simulation use fictitious or "moot" problems, others rely upon a case currently pending before the U.S. Supreme Court, while yet other faculty prefer a case already decided by an appellate court. Yet another approach is to use a complete trial case record. (Several trial records are available from Salter, 1991, 1976, 1975). In another variation Tom Hensley, of Kent State, allows students to choose which case currently pending before the U.S. Supreme Court to simulate in the classroom.

The percentage of each student's grade determined by scholastic moot court performance also varies, from 5% to 50% of the final grade. Videotapes on how to organize and conduct a scholastic moot court are listed in Appendix A.

Tournaments

More than a dozen campus-wide, statewide, or regional tournaments are regularly organized across the U.S.: several in California, and in Indiana, Illinois, Mississippi, North Carolina, Ohio, Oklahoma, and Texas (Knerr and Sommerman, 2001). Several tournament websites are listed in Appendix B. Unlike the scholastic moots, in which undergraduate students sometimes serve as judges, or attorneys, clerks or even reporters, in the tournament form of moot court the only competitive role for contestants is as an attorney. Two student teams are the norm; however, in one - the Oklahoma statewide tournament - single contestants compete. And although several tournaments require both briefs and oral argument, others - such as the Texas tournaments - require only oratory.

Variation can also be noted in regard to the case: several tournaments utilize a case actually pending before the U.S. Supreme Court, while others rely upon a moot or fictitious case. An additional point of variation is whether the case is "open" to outside research or "closed" to the cases cited in the tournament problem. The Oklahoma and Illinois statewide tournaments, for example, concern a case described in a short paragraph. Contestants then must research this "open" problem and identify supporting cases. In Texas, the tournament case is "closed:" only the moot case and certain specifically cited cases may be relied upon by contestants; no outside research is required.

Variation can be noted in regard to judging: some tournaments rely upon local attorneys and sitting judges, while other tournaments utilize law students and faculty. For example, Ken Salter of San Jose State University entices attorney-alumni to return to his campus to judge moot court competitions. Law schools host the Texas and Ohio tournaments; preliminary rounds are judged by second and third year law students, while the final round is judged by law faculty.

Undergraduate tournaments also vary in length and structure. Two tournaments—in Illinois and Oklahoma—are part of a larger simulation of state government organized and operated by students without significant faculty input. Hearings before the Illinois and Oklahoma "Supreme Courts" (populated primarily by law students) are conducted over three or four days. In Texas, tournaments begin on a Friday afternoon, during which two preliminary rounds are conducted, in which all but eight teams are eliminated, and resume early Saturday and conclude by shortly after noon (elimination rounds). The Ohio regional tournament—known as the Seiberling Competition and hosted by the University of Akron Law School—is conducted on a Saturday: two elimination rounds in the morning followed by a final round of the two best performing teams in the afternoon.

The first national undergraduate tournament was held January 19-20, 2001, at the University of Texas at Arlington, sponsored by the Honors College and the American Collegiate Moot Court Association, an organization formed in 2000 to promote undergraduate appellate simulation. Two person teams from thirteen states competed for trophies and prizes: trophies to the ten highest individual orators and individual trophies to the highest scoring eight teams, and two $2500 scholarships to any college for the finalist team and two $500 scholarships to the runners-up. Videotapes of the final round of this tournament and two statewide tournaments are listed in Appendix A.

Benefits and Costs

Benefits reported to the authors by undergraduate faculty and students include: improved communication skills, enhanced critical thinking abilities under duress, improved legal research and writing skills, enhanced self-confidence and poise, improved relations with alumni, and for those students performing well enough to enjoy one or more tournament trophies, enhanced acceptance rates into law school. A large number report participating in moot court is "fun," one of the most enjoyable activities of the undergraduate experience. Success in moot court tournaments are being used by some faculty and colleges as a recruiting tool to attract high school students to a college or a particular major.

In the opinion of the authors, based upon anecdotal evidence, one of the greatest benefits of undergraduate appellate simulation is practical preparation for law school. American legal education relies principally upon the Socratic method of instruction: law students are required to rise when commanded and to recite the facts of a case or to expound upon a legal doctrine, while under the duress of

probing inquiries of the law faculty. In addition most, if not all, law schools require students to participate in law school moot court, sometimes one of the most feared features of law school. Undergraduate moot court thus prepares students for both the law school classroom and law school moot court.

However, not all moot court participants are law school bound. A recent examination of post-baccalaureate information pertaining to more than two dozen University of Texas at Arlington participants over the past six years reveals only about half desired and were admitted to law school after graduation; many of the other half were admitted to graduate school, and a few entered the world of work. For some, then, the benefits extend to graduate work and the "real" world.

Of course, certain costs are a burden to students: time and energies to prepare for a moot court tournament are a major cost. The costs of travel and lodging for the tournament's duration are burdensome, along with lost income for those students gainfully employed. Faculty can become burdened with certain costs: classroom time devoted to staging a simulation, preparation time out-of-class, and for those faculty attending tournaments, travel costs. Some colleges support student and faculty travel costs. Some students raise funds from alumni or the local community. To the enthusiasts of undergraduate appellate simulation, the various benefits clearly outweigh any costs.

Research Agenda

Data needs to be gathered which clearly delineates benefits and costs to participants. For example, not all students participating in undergraduate moot court pursue a career in law and actually attend law school. Do these students accrue fewer benefits than those who attend law school? Another question centers on the differences between scholastic and tournament forms: is one approach more beneficial than the other? Yet another issue is student evaluations: are students in classrooms with moot courts more satisfied than students in similar classes without moot courts? Data needs to be gathered to bolster understanding of the value of appellate simulation.

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Appendix A: Ubndergraduate Moot Court Videotapes

Draw Near and Be Heard: A Simulation in Supreme Court Decision Making. Denton, Tx.: University of North Texas Center for Instructional Services, 1997. (Videocassette, 50 minutes.) (Copy on file with the authors.)

Moot Court: A Simulation for Legal Studies. Brookdale Community College, Lincroft, N.J., 1994. (Videocassette, 28.15 minutes).

State v. Ellen Doe. Suzy K. Rogers, College of Business, University of Wisconsin River Falls, 1994. (Videocassette, 60 minutes). (Copy on file with the authors.)

American Collegiate Moot Court Association National Tournament: Final Round January 20, 2001. ACMA and the University of Texas at Arlington, 2001. (Videocassette, 1 hour 20 minutes.)

Texas Statewide Moot Court Tournament: Final Round April 2-3, 1997. The University of Texas at Arlington, 1997. (Videocassette, 1 hour 4 minutes.) (Copy on file with the authors.)

Texas Statewide Moot Court Tournament: Final Round April 7-8, 1995. The University of Texas at Tyler, 1995. (Videocassette, 1 hour 27 minutes). (Copy on file with the authors.)

Appendix B:Undergraduate Moot Court Tournament Websites

American Collegiate Moot Court Association – National Tournament http://honors.uta.edu/acma/

Stanley Mosk Undergraduate Moot Court Tournament (California State University at Dominguez Hills): http://www.uwp.edu/academic/criminal.justice/moothome.htm

California Pre-Law Association Moot Court Tournament http://www.ocf.berkeley.edu/~cpla/programs_services.html

Illinois State-wide Tournaments: (Model Illinois Government) http://www.rvc.cc.il.us/faclink/pruckman/MIG/Moot/mootcrt.html

Wabash College (Indiana) Tournament: http://www.wabash.edu/depart/speech/mootco~1.htm

Seiberling Competition—University of Akron (Ohio) Law School: http://www.uakron.edu/law/seiberling/index.html

Oklahoma Inter-collegiate Legislature Moot Court: http://www.libarts.ucok.edu/organizations/OIL/scourt.html OR http://www.ok-oil.org/news.htm

Teaching Human Rights on Line: http://oz.uc.edu/thro/index.html

THE BOURGEOIS GENTLEMAN, MULTIPLE INTELLIGENCES THEORY, AND PUBLIC LAW COURSES

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How we teach public law courses is largely defined by our personal educational experiences and our understanding of the subfield's teaching and research methods. As public law faculty, we customarily design our courses from the disciplinary perspectives of law and political science and employ a combination of the traditional college and law school pedagogical models. We know that undergraduate faculty typically use a passive learning strategy based on readings, lectures, and research papers. We also know that law professors give their students an ungodly number of cases to read, brief, and analyze; engage them in a dialogue about the cases using the so-called Socratic method; and give exams that require them to use a body of case law to solve hypothetical problems.

When we search for ways to improve teaching and learning, we often have misgivings about the unaltered use of the traditional college model. Still we resist implanting the law school model unmodified into an undergraduate public law course, because we are, after all, teaching undergraduates, not training lawyers. So we typically use instructional techniques drawn from public law research models and law school teaching methods that pass a simple pragmatic test: do they work? Instead, we should consider Multiple Intelligences (MI) theory, because it is a useful instructional metamodel that promises to expand our opportunities to teach and our students' opportunities to learn.

The Multiple Intelligences Meta-Model

Multiple Intelligences theory is rooted in the work of educational psychologist Howard Gardner. In *Frames of Mind* (1983), he argues that IQ cannot be reduced to a single measure, because each person possesses their own unique combination of seven basic intelligences: linguistic, logical-mathematical, spatial, musical, bodily-kinesthetic, intrapersonal, and inter- personal. MI theory makes its major contribution to educational practice by suggesting that teachers can design a repertoire of techniques that draw upon a spectrum of intelligences to accommodate the needs of different kinds of learners. In elementary school, teachers try to use all seven intelligences equally, because it allows children to explore who they are and who they may want to become, given their unique personalities and talents. In middle and high school and, even more so, in college, faculty who teach discreet subjects are able to select the intelligences they want their students to develop and use a variety of techniques based on those intelligences to reach an intellectually diverse group of students.

Public law courses offer an opportunity to put multiple intelligences (MI) theory into practice. The syllabi and course materials in Lief Carter's *Public Law* (1992) provide examples of how frequently we incorporate MI techniques into our constitutional law, civil liberties, and judicial politics courses with the use of case briefs, hypothetical problems, and simulations. Articles in *PS: Politics and Political Science* and *Law and Courts* explore the joys and sorrows of using role playing (Guliuzza, 1991), advocacy papers (Hensley, 1993), mock trials (Baker, 1994), and certiorari simulations (Canon, 1997-98), but they are theoretically barren.

Like Moliere's protagonist in *The Bourgeois Gentleman* who did not know he had been speaking prose all his life, public law faculty are unaware they have been using MI theory. If they did, they would know that MI provides a framework for reflecting upon why and to what extent linguistic, logical-mathematical, and interpersonal methods work and to consider how the other four intelligences —intrapersonal, spatial, bodily-kinesthetic, and musical— are relevant to crafting a wider repertoire of teaching and learning strategies keyed to an interrelated set of resources, activities, and evaluation methods. As such, MI theory provides a context for designing instructional objectives and developing ways to achieve those objectives. MI does not dictate one way, but says that in choosing our ends and designing our means we maximize our capacity to reach the learning styles of as many students as possible.

The MI Civil Liberties Course

In my Civil Liberties course, I have experimented with learning techniques and materials tempered by an awareness that I could not use the law school model full strength with undergraduates. My process of continual experimentation and assessment, driven by the "does it work" criterion, led me, over time, to design a whole new learning experience. In a manner akin to Moliere's protagonist, I came to recognize how much the success of the course could be explained by Multiple Intelligences theory.

Civil Liberties is an advanced undergraduate course enrolling a diverse population of Government and Paralegal Studies majors along with a smattering of students from English, History, and Philosophy. Since most of them want to be attorneys or legal assistants, they need to develop a facility to read legal materials, reason in law, and work with others in legal settings. The course allows them to acquire a knowledge and understanding of the constitutional dimensions of freedom of speech and religion, privacy, and equality by means of an integrated set of materials, activities, and exams that develop their linguistic, logical, and interpersonal intelligences. The course does not develop their intrapersonal, spatial, bodily-kinesthetic, and musical intelligences, but its activities access and use them to enhance student learning. In sum, MI theory provides the infrastructure for these students to develop their ability to analyze cases, puzzle out hypothetical problems, and write opinions, for me to evaluate their learning, and for them to evaluate their learning experience.

MI Resources

MI theory has guided my analysis of learning resources. Common choices for civil liberties courses are law school and undergraduate casebooks. The law school volume is a weighty tome, heavy on case excerpts and light on historical, legal, and political material, while the undergraduate version is substantially the opposite with lengthy sections of text followed by a selection of cases. Law school casebooks provide students with no help in briefing cases, addressing hypothetical problems, or writing opinions in hypothetical cases. Undergraduate casebooks, aside from some fleeting attention to briefing, are equally unhelpful. In sum, these resources have a limited capacity to develop the linguistic and logical intelligences of undergraduates and give no attention to their interpersonal intelligence.

MI theory has also guided my choice of three learning resources. First, Steven Emanuel's *Constitutional Law* (2001) is a law school outline that law students have depended upon to figure out their cases and professors' lectures. Emanuel is also a readily useable and current resource for undergraduates because it explains legal principles and methods, dissects cases, and helps them argue hypothetical problems and write hypothetical opinions. Second, my course packet, *Fundamental Rights in Action*, addresses the MI deficiencies of law school and undergraduate case books with its primer on case briefing, its constitutional modes of analysis chart, and its hypothetical case and opinion problems and forms. Third, Peter Irons and Stephanie Guitton's *May It Please the Court* (1993) provides a set of classic Supreme Court cases that supplement those in my course packet and the companion audio tapes for the oral arguments in these cases help breathe life into the course.

MI Activities

MI theory has focused my attention on the design of classroom activities and led me to rely on a modified version of the law school course that explores civil liberties issues in separate units on speech, religion, privacy, and equality. Each unit begins with a survey of current civil liberties issues and constitutional modes of analysis, then focuses on an analysis of leading cases, and concludes with hypothetical problem and opinion writing exercises. At the end of the course, we sew all four units together with a class discussion of their opinions in the hypothetical case. In all, these course activities provide considerable variety and change of pace that weaves bodily-kinesthetic intelligence into the design and dynamics of the course.

1. Unit Surveys

Civil Liberties addresses issues that are constantly in the news. So I turn to news stories to introduce the subject of each unit and the methods we will use to analyze its cases. These sessions spark considerable participation, because the stories allow students to access their intrapersonal intelligence and express their personal feelings and views about the issues in these stories. This gives me the opportunity to tell them that their feelings are important, but that we will use more dispassionate modes of analysis to explore the cases, and puzzle out answers to the hypothetical problems.

2. Case Analysis

Case analysis fosters the growth of the students' linguistic and logical intelligences, because they have to employ the language of the law and its modes of analysis. Since case briefing is largely unknown to undergraduates, I introduce its use with the free speech case of *Wooley v. Maynard* (1977). We work with a sample brief, primer on case briefing, and chart on the modes of constitutional analysis from *Fundamental Rights in Action* to examine each element of the case. So this initial analysis of a case draws not just their linguistic and logical intelligences, but also taps their spatial intelligence in the form of the sample brief and analytical chart. Then all the students write a practice brief for *Texas v. Johnson* (1989), the flag burning case, and summarize the Irons and Guitton's excerpts of its oral arguments.

My approach to case analysis avoids the law school approach of grilling one lone student and relies on a panel of students. I begin with a practice panel in *Texas v. Johnson* using volunteers, then I assign each subsequent case to three or four students who join me at the front of the classroom. As in law school, our analysis begins with my questions about the

facts and issues. If the case includes an Irons and Guitton's edited audio tape of the oral arguments, we listen to the attorneys and discuss their arguments. Then we analyze the Court's opinions, its relationship to previous cases we have studied, and its legal implications.

3. Group Hypothetical Problems and Opinions

Hypothetical problem solving and opinion writing exercises, like case analysis, foster the development of the students' linguistic, and logical intelligences by doing constitutional law; and as group role playing exercises, they promote the development of their interpersonal intelligence. Since hypothetical problems, like case briefing and analysis, are almost unknown to undergraduates, designing each group so it has at least some students who have strong linguistic, logical, and interpersonal intelligence skills is not enough, because the analysis of constitutional legal issues is still a daunting task for students. So I have made it more tractable by creating hypothetical problem forms based on the Courts' analytical frameworks for speech, religion, privacy, and equality, that my students use to rough out their analyses.

I encourage students to view their group discussions as an interpersonal responsibility. I tell them that they have task leadership responsibilties: to suggest plans on how to solve hypothetical problems, to offer and ask for facts, opinions, and ideas, to pull together ideas and identify relationships and sources of difficulty, and to evaluate the workability of ideas and alternative solutions. They also have social leadership responsibilities: to encourage participation, to be open, friendly, and responsive to the opinions and ideas of other members, and to persuade them to analyze their differences of opinion and search for common ground.

I keep group discussions on task by circulating among the groups, asking questions, and telling them in response to the common question —"is there a correct answer?"— that there may be several answers depending upon the strength of their arguments. Once the groups decide the case, often with concurring and dissenting views, we conduct an informed class discussion that compares and contrasts the groups' reasoning, use of precedents, and results considers how different facts would change the result in the case.

At the end of each course unit, the groups discuss and write a section of a hypothetical opinion in *More v. City of Utopia*, a case that involves a city ordinance requiring families to eat a meal together once a month with only family members present and to precede the meal with a moment of thankful silence (Tribe and Dorf, 1991: 45). Writing an opinion is another new experience for the students. I make it manageable by providing them with a hypothetical opinion form and student-written model hypothetical opinion. As the students analyze *seriatim* the speech, religion, privacy, and equality issues and incrementally craft their opinion, they become deeply involved in their role playing exercise. Like appellate courts, they have disagreements over language and logic that lead to concurring and dissenting opinions. At the end of the course, the groups pair off and debate the case and then we hold an informed class discussion.

MI Evaluations

Just as Multiple Intelligences theory provides a framework for their case analyses and group discussions, it also suggests a set of objective criteria to address the inherent subjectivity in evaluating their individual and group participation.

1.Case Analysis

I use linguistic and logical intelligences criteria when I evaluate their ability to answer my questions about the facts, issue, and reasoning in a clear, concise, and thorough manner. Intrapersonal intelligence criteria guide my evaluation of their ability to follow the discussion, their preparedness to answer questions, and their willingness to volunteer answers.

2. Group Participation

I rely on linguistic, logical, and interpersonal intelligence to assess their group participation. Students use a group participation assessment to rate their participation and problem solving skills and those of each group member. Their comments on this form have helped me to hone my grading criteria. The A student is a group leader. The person who is "the heart of the group" who "keeps things going and everyone involved;" the one who is "knowledgeable about the legal tests and cases and how to apply them;" and "willing to work through every possible option to find the best answer." The B student comes prepared and participates, but is less aware of the legal tests and cases and has a more limited knowledge of how to use them. Often, this student looks for the "quick correct answer" that will "allow the hypothetical to end." The C student comes to class with sparsely completed hypothetical forms, a minimal knowledge of the legal tests and cases and how to use them, is "very reserved" or "very quiet," has to be encouraged by a leader to participate, and participates only when encouraged. The D student frequently misses group sessions; "rarely has the hypothetical problem forms completed before class;" has no meaningful knowledge of the legal tests and cases and how to use them; and will either not participate, even when encouraged, or disrupt the group with personal views. Using these student-defined criteria, I base each student's group participation grade on their collective assessment of each other and my observations.

3. Examinations

Since I use individual case analyses and group hypothetical problem solving activities to tap the students' linguistic, logical, and interpersonal intelligences, I design the exams to determine whether they have developed and are able to use these intelligences to do constitutional law. To this end, the mid-term and final exams use variations on the hypothetical problems they have wrestled with in group discussions to test their understanding of and ability to use legal concepts and modes of analysis.

Evaluating Civil Liberties as a Multiple Intelligences Experience

How successful is a Civil Liberties course based on Multiple Intelligences theory? The IDEA Report evaluation used at Morehead State is MI sensitive. It asks students about how a course furthered their understanding of principles and theories and improved their thinking skills and critical evaluation of ideas. They give the course consistently high ratings. Still the IDEA Report does not provide enough information about MI resources and activities. So I use a Course Information Questionnaire that asks: how helpful were Emanuel and the Irons and Guitton oral arguments in understanding civil liberties principles? How helpful were the case analyses, the hypothetical problems, and *More* opinion in understanding civil liberties principles and their meanings in practice? In all instances, these questions ask the students what changes they would suggest in learning resources and activities.

Student have concluded that Emanuel's advantages as a MI learning resource far exceed criticisms of its awesome size and detail. "I would have been completely lost without Emanuel. Used it in every panel case and group discussion. The book was my Bible to get through the course." The oral arguments in Irons and Guitton also made a big difference. "Listening to the real attorneys arguing important cases, we could hear the excitement and disappointment in their voices." "We were listening to history being made and how it shaped our future."

Student comments about their MI learning activities reveal the interplay of multiple intelligences. "Analyzing cases helped me overcome my shyness and see what I knew and didn't know. With every panel my confidence in my knowledge of the case grew and I actually looked forward to 'my turn'." Students spoke of how the panels forced them to be prepared to answer questions and how it developed their legal reasoning skills. "The panel forced me to analyze the cases for myself and to interpret what was said." "I actually felt like one of the attorneys defending my case."

Students saw the interpersonal advantages of group discussion of the hypothetical problems and writing the *More* opinion. "The hypotheticals helped us to hammer out the issues, relevant case standards, and apply the analysis to each case." "It's like having five or six other people to brainstorm a problem. Between the group members, we usually came up with the 'most correct' answer." "Talking things over made me have a more open mind on the problems." Students also saw other task and social benefits. "Group discussion allowed me a chance to express myself in a smaller forum and gain confidence in my knowledge of cases." "It's helpful to know that you're not alone in your struggle to understand the assignment."

In sum, the student comments confirm that they recognize the benefits of an MI-designed course. The most frequent and satisfying response is: "I wouldn't change a thing." Still their ideas have encouraged me to recognize the relationship between spatial and linguistic intelligences by writing an explanation of my constitutional modes of analysis chart, to appeal to their spatial intelligences by creating the hypothetical case analysis and opinion forms, and to modify group participation by encouraging all group members to develop their interpersonal intelligences.

Conclusion

The Civil Liberties course provides a Multiple Intelligences experience that links learning resources and exercises to student evaluation methods by relying primarily on three intelligences –linguistic, logical, and interpersonal— that are at the core of public law teaching. My use of MI theory has provided my students with a Christopherian encounter. Howard Gardner (1991) suggests that just as Columbus challenged the idea that the world was flat by sailing beyond the edge, we need to challenge our students by pushing them over the edge. In discussing the role playing activity in his constitutional law course, Thomas Hensley (1993) quotes from a wall hanging given to him by one of his con law students: "The teacher said to the students: 'Come to the edge.' They replied:' We might fall.' The teacher again said: 'Come to the edge.' And they responded ' It's too high.' 'COME TO THE EDGE,' the teacher commanded. And they came, and he pushed them. And they flew" (67). If neither Hensley nor I have been aware that we have been using MI theory and techniques, then we are not alone as bourgeois gentlemen. Granted our students have flown, but a knowledge of MI theory will allow us to make more of them even better flyers.

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Note

The author wishes to acknowledge the comments of Howard Gardner, Professor of Education, Harvard University; Ernest J. Yanarella, Professor of Political Science, University of Kentucky; Leslie Anderson, former principal of Russell Elementary School, a Lexington, KY multiple intelligences magnet, and now a consultant on multiple intelligences teaching; and Rowena Green, M.A., a middle school foreign language teacher at Lexington Traditional Magnet School, Lexington, KY.

THE UNITED STATES SUPREME COURT JUDICIAL DATABASE: AN UPDATE

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With the assistance of Lee Epstein and Sara Benesh, the number of publicly available NSF-funded Supreme Court databases has doubled from two to four along with an attendant increase in the amount of data contained in the original database. The purpose of this announcement is to briefly describe these developments and specify our future database plans.

The four databases are the following and are available from the website of the Program for Law and Politics at MSU as SPSS, SAS, and ASCII files:

The Original United States Supreme Court Judicial Database, 1953-1999 Terms. Contains the final vote data from the beginning of the Warren Court, through the Burger Court, to the present. The unit of analysis for this database is the case (docket).

Vinson-Warren Court Database, 1946-1968 Terms. Contains both final vote and conference vote data from these two Courts. The unit of analysis is the case (docket).

The Burger Court Database, 1969-1975 Terms. The first of the new databases, it contains both final and conference vote data organized by case (docket). The conference vote data were collected by students under the direction of Lee Epstein.

The Justice-Centered Rehnquist Court Database, 1986-1998 Terms. This new database contains only final vote data, but unlike the other three, the unit of analysis is the individual justice. The transformation of the data from case based was done by Sara Benesh.

The last of these databases is the first in a series of four databases that will respectively treat the Vinson, Warren, and Burger Courts as justice-centered. Sara and I hope to have these on line by early next Fall. Although these justice-centered databases will include the five sets of variables common to those centering on the case or docket – identification, background, chronological, substantive, and outcome – in addition to voting, opinion, and interagreement data, they differ from the first three in that the behavior of each justice is treated as a distinct entity, independently of the others. Thus, for example, if a justice bases his or her vote on an issue or a legal provision different from the majority, or views a law as unconstitutional or that a precedent should be overruled, this information is provided notwithstanding the majority's disagreement. Hence, the justice-centered databases will allow systematic analysis of the preferences and behavior of each justice in isolation from the others, as well as a comparison of one justice with other(s).

The justice-centered database is proportionately of much greater size than the others, notwithstanding that it covers fewer terms, because each case (docket) contains a typical minimum of nine records, one for each justice, for a total of 24,671. The database has 95 variables, for a total of 2,368,415 data cells. The other three contain many more variables, although with fewer records: the original, 247 variables and 2,938,312 data cells; Vinson-Warren, 584 and 6,407,064; and Burger, 326 and 1,759,422.

Their size should not intimidate users. I have made all four databases much more user friendly than their original versions. Many of the variables are dummies. The SPSS version, the most popular, comes complete with variable labels and the values of each variable. the only exceptions are those with more than a dozen codes; e.g., legal provision, issue, and parties. These may be found in the documentation that is tailored to each database and which is also available for downloading from the website.

Because of users' general familiarity with SPSS, I no longer append the commands of the computer generated variables, which are mostly dummies, to the documentation. Any user who wishes same may contact me. A separate document is available that provides the results of the reliability check for each database except the justice-centered Rehnquist database. Its check will be found near the end of the Introduction to the documentation.

Finally, I update the original database as I read the Court's opinions. Thus, the entries are current within a month or two after the Rehnquist Court handed the decision down. Sara and I will also update the justice-centered database to include the 1999 term this summer.

The databases and their documentation may be obtained by visiting the Judicial Program's website at www.msu.edu/~pls/pljp/ I continue to welcome user comments, suggestions, and corrections: GOTOBUTTON BM_1_ Spaeth@msu.edu

Needless to say, without the support of the NSF, along with that of the MSU Program for Law and Judicial Politics, none of these databases would exist.

Section News and Awards

Call for Nominations

At its 2001 business meeting in San Francisco, the Law and CourtsSection will elect four officers: a Chair-Elect and three members of the Executive Committee.The Nominating Committee solicits suggestions from the membership for individuals to fill these positions. If there are particular Section members you would like to have considered for these offices, please e-mail or phone the Nominating Committee Chair, Mary Volcansek. If you wish to communicate your suggestions to any of the committee members, please send a copy to the Committee Chair.

All suggestions must be received by April 1, 2001. The Nominating Committee's recommended slate of candidates will be posted on the listserve and will be published in the Summer issue of Law and Courts.

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The CQ Press Award

The CQ Press Award is given annually for the best paper on law and courts written by a graduate student. To be eligible the nominated paper must have been written by a full-time graduate student. Single- and co authored papers are eligible. In the case of co-authored papers, each author must have been a full-time graduate student at the time the paper was written. Papers may have been written for any purpose (e.g., seminars, scholarly meetings, potential publication in scholarly journals). This is not a thesis or dissertation competition. Papers may be nominated by faculty members or by the students themselves. The papers must have been written during the twelve months previous to the nomination deadline. The award carries a cash prize of $200.

Next year's nomination deadline is June 1, 2001. To be considered for the competition, a copy of the nominated paper should be submitted to each member of the award committee:

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Announcements and Calls for Papers

Call For Submissions

Research on Judicial Selection, first published in 2000 by the American Judicature Society's Hunter Center for Judicial Selection, is an annual series that provides a forum for scholarly research and debate on a wide range of judicial selection issues. The series' editorial board is composed of leading scholars in the field, including Nicholas Alozie, Larry Baum, Anthony Champagne, Sheldon Goldman, Melinda Gann Hall, Judith Haydel, Nicholas Lovrich, and Elliot Slotnick. The Hunter Center invites submissions for the 2001 volume from researchers, practitioners, and commentators.

To facilitate anonymous peer review, authors should submit three copies of manuscripts, all with identifying references removed. Manuscripts should be 20-50 pages in length and should include an abstract of no more than 150 words. Manuscripts should be sent to:

Research on Judicial Selection
c/o Malia Reddick
American Judicature Society
180 N. Michigan Ave., Suite 600
Chicago, IL 60601

Submissions for the 2001 volume will be accepted through June 30, 2001.

Call for Papers: Criminal Justice Review

The Criminal Justice Review is a biannual scholarly journal dedicated to presenting a broad perspective on criminal justice issues. It focuses on any aspect of crime and the justice system, and can feature local, state, or national concerns. Both qualitative and quantitative pieces are encouraged, providing that they adhere to standards of quality scholarship. As a peer-reviewed journal, we encourage the submission of articles, research notes, commentaries, and comprehensive essays that focus on crime and justice-related topics broadly defined. Four copies of manuscripts should be submitted in English, follow APA style, be double-spaced throughout, including references, tables and indented quotations, and cannot be under consideration by another publication. An abstract not to exceed 200 words must be included with submissions. Send to: Michael S. Vaughn, Editor, Criminal Justice Review, P.O. Box 4018, Georgia State University, Atlanta, GA 30302-4018; 404-651-3660; Email: cjr@gsu.edu; Web Site: www.gsu.edu/cjr.

Call for Papers: International Criminal Justice Review

The International Criminal Justice Review is an annual scholarly journal dedicated to presenting system wide trends and problems on crime and justice throughout the world. Articles may focus on a single country or compare issues affecting two or more countries. Both qualitative and quantitative pieces are encouraged, providing they adhere to standards of quality scholarship. Manuscripts may emphasize either contemporary or historical topics. As a peer-reviewed journal, we encourage the submission of articles, research notes, commentaries, and comprehensive essays that focus on crime and justice-related topics in an international and/or comparative cont xt broadly defined. Four copies of manuscripts should be submitted in English, follow APA style, be double-spaced throughout, including references, tables and indented quotations, and cannot be under consideration by another publication. An abstract not to exceed 200 words must be included with submissions. Send to: Michael S. Vaughn, Editor, International Criminal Justice Review, P.O. Box 4018, Georgia State University, Atlanta, GA 30302-4018; 404-651-3660; Email: icjr@gsu.edu; Web Site: www.gsu.edu/icjr.

Elite Interviewing Short Course

The Political Organizations and Parties Section is organizing a short course on elite interviewing at this year's American Political Science Association annual meeting. The course will feature an afternoon of advice and pointers from some of the most experienced interviewers in the discipline, and is open to any member of APSA.

Panelists for the course include: Joel D. Aberbach, Jeffrey M. Berry, David Farrell, Ken M. Goldstein, John H. Kessel, Beth L. Leech, H.W. Perry, Bert A. Rockman, and Laura Woliver.

The course will run from 1-5 p.m. on Wednesday, August 29. There is no charge for the course, but participants must pre-register. Registration forms will appear in the summer issue of PS.

A limited number of $100 stipends will be available for graduate students attending the course. To apply for one of the stipends, students should send a vita and a one-paragraph explanation of how they plan to use elite interviewing in their work to: Diana Dwyre, Department of Political Science, California State University-Chico, Chico, CA 95929, phone (530) 898-6041, email DDwyre@csuchico.edu. The deadline is May 15, 2001.

Third Annual Supreme Court Historical Society Summer Session

The Supreme Court Historical Society is pleased to announce the third annual seminar for college teachers and advanced doctoral students, a program associated with the Institute for Constitutional Studies. This year the topic for discussion will be "The Modern American Presidency and Its Constitutional Transformation." The seminar will be led by William E. Leuchtenburg of the University of North Carolina and Richard Pious of Barnard College of Columbia University.

The seminar will focus broadly on constitutional issues regarding the transformation of the American presidency from Franklin D. Roosevelt through William Jefferson Clinton. Seminar leaders will guide discussion around assigned readings, topics of the participants' interest, will share their own research, and will organize guest lectures and other activities that will take advantage of the unique riches of the Washington area for research on these subjects. They will also advise the participants regarding archival research and use of other primary resources.

Participants will be required to identify their topics of research interests in advance and provide a short bibliography of reading materials for other seminar members to read. Each regular meeting will concentrate on one of these research topics. Times outside the scheduled meetings will be reserved for special events as well as for individual consultation with the seminar leaders. Participants will be expected, as a result of the seminar, to produce a draft of some significant part of their projects.

The seminar will meet in Washington, D.C., for three weeks, June 11-29, 2001, and daily sessions will be held at Opperman House, the new headquarters building of the Supreme Court Historical Society, near the Supreme Court and the Library of Congress. Participants may be housed in near-by university residence halls or make other arrangements.

Enrollment will be limited to fifteen participants, each of whom will be awarded a stipend adequate to cover costs of travel, room, and board. Applicants for the seminar should send a copy of their c.v., a brief description (three to five pages) of the research project to be pursued in the seminar, and a short statement of how this seminar will be useful to them in their research, teaching, or professional development.

Materials may be sent either by regular mail or electronically. Hard copy should be sent to Professor Melvin I. Urofsky, Center for Public Policy, Virginia Commonwealth University, Richmond, Virginia 23284-3061, while electronic files should go to murofsky@vcu.edu. Applications are due no later than 15 March 2001, and successful applicants will be notified in early April.

For further information, contact Melvin Urofsky by phone, 804-828-4387, or by e-mail at murofsky@vcu.edu.

First AMTA Case Competition
$1000 Prize

Win fame as well as fortune – author a civil or criminal case for use by the student participants of the American Mock Trial Association in their year-long round of Invitational, Regional, and National Tournaments.

Submissions should be sent to the AMTA Case Committee, c/o Dr. Don Racheter, Central College Box 055, 812 University, Pella, IA 50219-1999 or to RacheterD@Central.Edu by 1 June 2001. Please contact him for additional details on submission requirements if interested.

CONFERENCES, EVENTS AND CALLS FOR PAPERS

UPCOMING CONFERENCES

WINTER AND SPRING 2000-2001

CONFERENCE	DATE	LOCATION	CHAIR
MID WEST POLITITCAL SCIENCE ASSOC	APRIL 19-22	CHICAGO, IL	MARK SCHNEIDER SUNY - STONY BROOK
NEW ENGLAND POLITICAL SCIENCE ASSOC.	MAY 4-5	PORTSMOUTH, NH	THOMAS BURKE WELLESLEY COLLEGE TBURKE@WELLESLEY.EDU
SUPREME COURT HISTORICAL SOCIETY	JUNE 11-29	WASHINGTON DC	MELVIN UROFSKY VIRG.COMMONWEALTH U MUROFSKY@VCU.EDU
LAW AND SOCIETY ASSOCIATION	JULY 4-7	BUDAPEST, HUNGARY	KIM LANE SCHEPPELE UNIV OF PENNSYLVANIA KIMLANE@LAW.UPENN.EDU
APSA	AUG 30 - SEP 2	SAN FRANCISCO, CA	LAW AND COURTS PAUL J. WAHLBECK, G. WASHINGTON UNIV WAHLBECK@GWU.EDU CON LAW &JURISPRUDENCE NANCY MAVEELY TULANE UNIVERSITY NANCE@MAILHOST.TCS.TULANE.EDU

Subscriptions to **Law and Courts** are free to members of the APSA's Law and Courts Section. Please contact the APSA to join the Section.

The deadline for submissions for the next issue of **Law and Courts** is July 1, 2001.

Law and Courts

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