

Chris Martin. Welcome to the Kosmos Online podcast, this is Chris Martin from the Institute for Humane Studies, and this discussion is part of our series on teaching techniques. Today my guest is Tom Bell, and we will be talking about the Socratic method in the classroom. Tom is a law professor at Chapman University where he joined the faculty in 1998. He specializes in high-tech legal issues and has written a variety of papers on intellectual property and internet law. He also has an extensive teaching history for 15 years, including international entertainment law, intellectual property and internet law. Tom, welcome to Kosmos!

Tom Bell. Thank you Chris, I'm glad to be here!

CM. Tom, for people who have perhaps only seen *The Paper Chase* or read novels about law school, what is the Socratic method in practice, and does it have anything to do with Socrates or is that just a figure of speech?

TB. Yeah, it has something to do with Socrates. Socrates was famous in the dialogues for leading his students to the truth through a series of questions, so rather than simply expounding what he took to be the truth, as Aristotle might have done, Socrates would ask a series of pointed questions knowing basically what the answers would be, but causing his students to reach the right answers themselves. That's basically the model used in a lot, but not all, of law school teaching, and in a lot of other disciplines too, although they don't call it the Socratic method. It's got its advantages and disadvantages, but to the unprepared student it can be a little puzzling and frustrating at first.

CM. What's an example of a topic you might teach this way? Can you sort of lead us through a scenario in which, if we came into your class, you would teach us something using this method? What might that topic be?

TB. Sure, I and I think probably most professors tend to use it most in first-year classes. In upper-level classes there is frequently a lot more black-letter law or close statutory reading or other things like writing papers. In those first year classes though, you really want to train students to think like lawyers. And the thing is, when you're an attorney, people come to you not knowing even what their legal claims are. They don't come to you and say, "I have a claim for assault and battery", or if they do say that they are frequently wrong. So if I'm teaching torts, I want my students to be able to answer my questions the way they will have to answer a client's questions. So I might first give them, or get from a case, a rough definition of assault or battery. Let's take battery; it's an offensive touching. An offensive touching is a very short way of describing battery. So I might put that out on the table or we get that from a case and then I ask a student, "So is it battery when someone touches your cloak if you're wearing one? Say they tug at the corner of your cloak, is that battery?" And then the student gives me an answer, yes or no, and we talk through it and decide whether that's the right answer, and then I ask them another question, "Well how about if you're carrying a package? And someone strikes the package you're holding in your hands?" And suppose they say yes, touching your clothing is battery, and indeed it is, what about the package? It's not attached to you in the way clothing is. And so you go into a series of these hypotheticals, "hypos" as we call them in law school, and it gives students the feel for the shape of the law in the way a simple rule would not, because the law is all about applying rules to particular facts,

and it teaches them to think like an attorney. When someone brings a problem to you as an attorney, they hardly even know what they're asking. And you don't just whip out a book and read to them. You have to think on your feet and get the rules, which are abstract, to apply to these particular facts in front of you.

CM. Now in that series of questions which you just explained to us about battery, would you be in dialogue with one student, the same student who answered, or would you be shifting around, probing other members of the class? How would you make that decision?

TB. That's to some degree a matter of personal taste or pedagogical technique. I like to move around a lot because one of the charms of the Socratic method from a professor's view is it produces anxiety in students. Anxiety is a great motivator, and if students know, oh Bell just called on Johnson down in the second row, he's going to be there for 15 minutes, they feel completely happy sometimes kicking back and checking eBay or Facebook, and you don't want that as an instructor. You want to keep everyone on their toes. So I like to move around a lot, but there's a lot to be said for mixing it up a lot, and every once in a while really sticking with one student exhaustively, wringing them dry, because they has advantages too. Sometimes particular students seem to invite that sort of discussion; they might be particularly good at it or particularly bad at it and you want to give them the exercise. But there's no rule basically, there are different ways of doing it.

CM. That was something I wanted to ask you about. Is the role of the questioning method to create a kind of productive tension in the class? Because I can imagine the students are sitting there very wrapped listening to what's going on between you and another student because they know the next question could be to them.

TB. Yeah, you're absolutely right, that is an advantage.

CM. How do you manage, how do I put this, the psychology of that? In a previous podcast, we spoke with Steve Horwitz, who you know, the great economics teacher from St. Lawrence University, and he mentioned that he felt uncomfortable with, as he put it, "cold calling" on students in his classes. Now these are undergraduates, so it's a different dynamic, but he felt a shy student or someone who is not as comfortable with public speaking might feel put on the spot, and therefore he doesn't like to cold call. Do you feel that issue is addressed just by virtue of their being law students, and they have to be comfortable in these situations, or how do you deal with students who are shy or not as comfortable with it?

TB. Well there are disadvantages to the Socratic method. I don't count that so much as one of them. There are disadvantages to cold-calling and I can return to that in a moment, but let's deal with the psychological issue. I would say, as you implied Chris, that when you become a law student, one of the things you're taking up, one of your obligations, is to learn to speak in public, even when you prefer to be quiet, because as I tell my students, you may think you'll be a transactional attorney, you're never going to stand in front of a court room, you're never going to have to talk to a jury because you don't like public speaking. But you're wrong, because you could easily be in some sort of board meeting and the chair of the board could turn to you, the attorney, and say, well tell me, Mrs. Lee, why we should not

engage in this merger. That's not a big crowd, there might be 12 people in the room, but that's a high pressure situation and you're going to have to step up to the plate, like it or not. So that's something I tell students they're going to have to get comfortable with. They don't have to like it, they don't even have to be excellent at it. But they have darn well better be competent at speaking in public and thinking on their feet. So I feel completely free going after students who are a little bit nervous, a little uncomfortable, and in a way that's good because those students will need that experience. If I could add, Chris, I do want to say one more thing about the disadvantages of cold calling. And Steve Horwitz might have been thinking this, because it can be a disadvantage even to a tough-minded law professor like myself. You don't want to waste time. Time is valuable in the classroom and if you're stuck with a student who is just clueless, it's just not worth anybody's time to pound into the ground or to hassle them or pester them when they are just spinning their wheels. One thing you can do is simply be sensitive to that and move on when students basically are clueless. It's embarrassing enough, students are not going to lie to do that, so they won't take advantage of your moving on. But what I do, and I picked this up from Randy Barnett, who I met through IHS, is a modified version of what Randy does. Basically, at the beginning of class, I hand out a sheet for class participation. Students sign it or they don't, they have their option, if you sign it, you automatically get the class participation point, if you don't you don't. if you're on the list, it doesn't mean I will call on you, because I don't ever get to everybody who signs the list, almost everybody signs in, but I will give you the point. If you're not on the list, I may still call on you, but if you're on the list and I call on you and you're not prepared, bad things happen to your grade. So you see, this gives me a list of people who at least say they are prepared and who have a strong incentive not to lie about that. So I don't typically run into this problem of wasting everyone's time with unprepared students because I use that sign-in technique.

CM. So their incentive to sign in is the participation credit, so presumably if they truly have an emergency one day, a family situation or they're ill, they absorb a small damage to their grade for not risking a big one. Is that the way you are setting up the incentives?

TB. Absolutely, that is correct, yes.

CM. that is a very good system! So in a way, they contract with you. They buy into the fact that they're going to potentially be called on so they can't complain if you do.

TB. That's right, and it says so at the top of every sign in sheet. It says, "By signing in, I attest that I have done the readings and I am prepared to discuss them in class."

CM. That's a good technique that can be employed, not just in law school context, but in any discussion-based class. Seminars for undergraduates as well, I would think.

TB. Absolutely! I'm surprised now, and I have been using this method for so long, and I look back on my undergraduate teaching, or talk to people who teach undergraduate classes, I'm surprised how little they use these methods. And I think they should reconsider it. I know Steve, and other professors who don't, probably have considered reasons but I think maybe they should reconsider their reasons. Too many professors lecture. They just lecture front to back, and it's a very low bandwidth way to get information out in the room, and oh there is just so much I can say that is wrong with that.

CM. Actually, this is a natural segue into an issue we talked about earlier, which is how would you weigh the uses and disuses of this method versus traditional lecturing? Does traditional lecturing still have a place do you think? What would be the split that you would choose, or that you do actually choose in your classes, between just straight information push, and this kind of technique?

TB. Well I have not given up on lecturing, I still lecture, probably more than I should. It's every professor's disability to love having a captive audience and to hear themselves talk. But that said, there are still reasons to lecture. Sometimes it's an effective way to convey information, particularly when the readings are not clear, or particularly for students who have trouble digesting text. Now it's not so much of a problem with my students, but I can easily imagine in undergraduate courses, if it's a very difficult text, a lecture can really help reach some students. So at the end of the day your job is to send students out with skills and information that they didn't have before. So lecturing has a role in moderation, certainly. And all law professors use it, even those who use a lot of Socratic.

CM. And how do you compare the prep time for traditional lecture versus Socratic? I imagine you still have to prepare the facts or the case you're going to base your questions on, and maybe you even prepare the questions themselves. If you had to give a rough figure, if you're preparing for an hour long class, what's the prep time for preparing for a traditional lecture versus preparing for a Socratic class?

TB. That's a good question, I've never sat down and quantified it. I don't think there would be a big difference, but you have to understand at this point I've been teaching Socratic for so long, basically once my notes are prepared, I'm ready to either lecture or engage in Socratic. To me its two approaches to the same material and I don't have to think too hard about switching from one to the other. If you're a beginning professor, I imagine you would want to, as you suggested, write out your questions in a little more detail and there would probably be some struggles to understand how to convey what to you is internally a lecture, because that's kind of internally how we store the data, I start at the beginning and I roll out all of the facts, the theoretical framework, there's a struggle at first to figure out how you convey that statement into a series of questions. But once you've mastered that, and it's not rocket science, then I'd say it's about the same in terms of preparation.

CM. OK, that's helpful. And then as you implied, it's probably a skill just like anything else. As you do it, you become more efficient in your preparation, and becomes almost second nature.

TB. Yes, yes.

CM. how did you yourself learn to teach this way? Is this a topic that is covered in law school, or is it something you kind of absorbed while watching your own professors or just by necessity you perfected when you got your first teaching post?

TB. I suppose I absorbed it mostly from my professors and then once I began to use it in the classroom I'd occasionally reflect upon it. Law professors are actually a pretty thoughtful bunch pedagogically. They have a specialized journal devoted to exploring pedagogical methods, they talk about these things when they get together an awful lot, there's even sometimes empirical studies. I did a terrible study

when I was a law student, in fact. I built a model of inducing anxiety in law students, so I could figure out how to induce the most anxiety in law students, by calling randomly or working down rows or what?

CM. What was your conclusion? I have to know what your conclusion was. What's the best way?

TB. I tried 3 models out. One was random, the other was going down rows, and the other was what I called the King method, where as the king moves on the chess board, you call on a student, and you move to either side or up and down or diagonally from the student as if the students were laid out on a grid.

CM. Oh, that makes sense.

TB. If memory serves, the method that induced the most anxiety was working down rows, and that was the method I saw used most frequently among my professors. That was a happy, I wouldn't say coincidence, that was a happy result because that's what the model predicted. And the reason, Chris, is because when you work down a row of students, you get this payoff. You start at one end of the row, and pretty much everybody else in the row now starts worrying, and they start worrying pretty intensely as they get closer to the people being called on. So for several minutes, you have something like 4, 5, or 8 students who are frantically flipping through their case books, paying attention to every word, and you don't get the same effect with randomness, it's too diluted really. That was what the model said.

CM. That's fascinating! That's a very useful piece of information, too. If you need to induce constructive anxiety, not to make people nervous for the sake of it, really focus their minds, that's great. What is the journal that you mentioned, Tom, the law pedagogical journal?

TB. It's the Journal of Legal Education. Yeah, that's what it's called. It's not entirely, purely about pedagogical issues, but they do address that sort of thing a great deal. I learned from that, for example, that a study indicating that you should always go back and reread the first exams that you grade, because most professors, at the beginning of their grading, are disappointed in their students' performance because, of course, the professor knows it all and the students only know a portion of it, and you start reading the exams and you just go, "Ah, this is terrible! They only got a third of it!" and then you start to work into the examples and you discover that everybody, at best, only got a third of it, and that's why you need to go back and re-grade the first exams. That's the kind of thing I got from that journal, and there's all kinds of stuff like that.

CM. OK, that sounds like it could be useful for people outside of law to use that technique, and maybe for others as well.

TB. Absolutely, absolutely.

CM. So if someone from outside of law was interested in teaching using this method, how would you suggest they go about perfecting that skill? Should they go and sit in on a class at the local law school and observe, or is there a book you could recommend for them, some way to kind of get the hang of this technique?

TB. Well I guess they could watch Paper Chase, or read the book, which has fairly accurate, from a student's point of view, impressions of the Socratic method. I would advise any professor who takes that approach to tone it down a bit. Nobody now teaches Socratic in a way that it constitutes hazing, at least no one thinks they do. It used to be kind of a rite of passage, that you would reduce students to sort of shambling psychological wrecks and move from there, but that just doesn't fly anymore. Most people, if you go to the meat market as they call it, interview for prospective law professors, as I've done before, and they ask you your teaching style, almost to a one they say, modified Socratic. And that's what people say they use if they say they use Socratic at all, and you should note, Chris, that I am a fan of the Socratic method, but there are smart law professors who eschew it completely, they think it is a waste of time. Opinions vary, and law professors are opinionated people, but most professors or would-be professors say modified Socratic. And by that they mean, I like to use questions to get the students to think for themselves and to evoke their participation, but it's always in a friendly, constructive way, no one is made to look the fool, I don't abuse anybody. And in The Paper Chase in particular, there is a fair amount of abusing. So I would advise, if you use that as your source, to tone it down a little. There are probably texts, books, that approach it from more of an academic, dry angle. I haven't honestly looked for or stumbled across those, but it's not unlikely those sources are out there for the curious professor. And one more thing I would say, Chris. If you're going to go to the law school and drop in our classes, which could be really interesting and useful, I would double check first, if you want to learn the Socratic method, who uses it and who is good at it. Because not all professors who use it are good at it, and not all professors use it, and you want to discretely figure that out before hand.

CM. That's a good point. And also, and I would imagine as a courtesy, and you can tell me if this is really necessary, you might want to mention to the professor you're going to sit in on you would like to do that.

TB. Oh absolutely, absolutely.

CM. Are there any sort of final hints you might have for someone who is going to use the Socratic method? Anything you might not think of to begin with that is very useful? Like the Row technique is something I don't think anyone would think of on their own. So are there any final tips you have for folks?

TB. Well Chris, I will observe that I don't use that myself for what it's worth for other reasons, so it's not the end-all and be-all. Yeah, there are a few things I would say to someone who is interested in the Socratic method. A pitfall you need to be worried about, especially if you're a young, un-tenured professor, is that students don't always like it. Students are frustrated by the Socratic method because they want you to tell them the answers. They want you to just pour knowledge in their heads for the most part. That's understandable, particularly when they come from an undergraduate career where that's how they were instructed, that's what they're used to, but anyone I think would find it a little bit discomfoting to think, I need to find the answers myself. This person is teaching me how to think, perhaps, but that doesn't tell me what to write on an exam or what to tell a client. And that's disconcerting. Now I happen to think that sort of imbalance or unease is good, you don't get a good mental workout if you're not working hard, but man it makes you break a sweat, and students want to coast. So that's a warning to young, untenured professors who are worried about teaching evaluations.

Now that said, I don't want that to scare people off, they are rarities. Two things I would suggest: one is, still give them the black letter law, or the black letter whatever it is you're teaching. Still use the lecture. At the beginning of class you say, here is what we are going to cover today, maybe you give them a few basic rules, and you say we are going to explore the subtleties, and at the end of class you sum it up, or at the beginning of the next class you sum it up, and you say that we found that...blah blah blah. And the students go, phew! Now I know what I was supposed to get out of that, because when we were doing it I was totally lost. Also it helps to explain to students why it seems like you're being a mean S.O.B. and not telling them everything that they need to know. And so I take time, not just at the beginning of the course, but throughout the course, to remind the students we're there not just to get answers, and indeed not primarily just to get answers, to their questions about what is the rule, but rather to learn to think like attorneys. And for other people I think the reasoning can go the same way, especially economists, maybe not so much historians, but probably people who do political economy, political theory, physics if there are any science people in the IHS network, and all those regimes like law, it's not so much the rules that you're learning. It's how to apply the rules. Think about physics; $F=ma$. They tell you that the first day of Newtonian mechanics. And you learn what F equals and what M equals and all that, but that's not what they give you on the exam. On the exam they tell you, there is a 14 kg ball rolling down a 45 degree slope and it impacts an elastic body at the bottom, and you've got to work out the math, and that's the heart of it. Same thing in law. They give you the rules, that's relatively easy, a lot of them are complicated but if you're willing to just stuff stuff in your head, you'll know that a battery is an offensive touching. That's the easy part, the hard part is applying it. I would think that's true of economics as well, I can't speak to history, maybe not so much. But the point Chris, is let the students know why. There are good reasons for you to kind of hide the ball, and then also unhide the ball every once in a while and reassure them, OK here is what you should have gotten out of that.

CM. That is excellent advice, and I think that letting the students know the rationale would go a long way both towards improving their learning, and also as you said, you want to avoid freaking them out too much, especially if you're young trying to get tenure and you need to do well on the evaluations. But I think for everyone listening in the audience, if this is a technique that you think would be useful, you can investigate in the way that we have discussed, and Tom, thanks very much for sharing some great insights with us!

TB. You're welcome Chris, thank you!

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