

VALUING THE SPOKEN WORD: PUBLIC SPEAKING FOR LAWYERS

SAMUEL H. PILLSBURY*

It's hard to value the ordinary. Consider public speaking. Giving a talk to a group seems like ordinary speech, just amplified. It's not like singing an aria at the Met, or arguing a case before the United States Supreme Court; it does not require years of training or special physical abilities. Once one gets over the fear factor—a significant hurdle for many, but arguably more a matter of courage than talent—the speaker just speaks, something that most of us have been doing for a very long time.

A moment's consideration, however, reveals the error in this line of thought. How many *good* public speakers do you know? How many lawyers would you gladly listen to for more than ten minutes? How many more, by contrast, inspire dread and despair when you realize how long they will be speaking? The ability to speak well to groups is far from common, even in our voluble profession.

In this frankly evangelistic essay, I suggest that we should value public speaking more highly, especially public speaking by lawyers *outside of* litigation. Although many lawyers must do such speaking in their practice, and most could use some help in this challenging endeavor, public speaking is not taught in most law schools today. I think it should be. Teaching the subject would also represent an important step toward reviving one of our oldest arts.

Several years ago I realized that many of my students had real trouble speaking. Both in class and out, they often spoke awkwardly, tentatively, even apologetically when engaged in legal discussion. Regardless of whether they knew what they were talking about—and often they did—they did not *sound* knowledgeable.¹ They were not well-spoken. This was probably nothing new, but my recognition of the problem was, and it prompted new questions about law school education. Because oral skills are important to any lawyer, litigator or non-litigator, perhaps they should

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* Professor of Law, Loyola Law School, Los Angeles. My thanks to my students in the two Public Speaking classes at Loyola that I taught in the spring of 2002 and 2004, and to our former Associate Dean Victor Gold, who exercised his wise discretion in permitting these experiments in legal pedagogy.

¹ By contrast, my wife often remarks that the main thing I learned in law school was how to sound like I know what I'm talking about even when I don't.

be taught in law school. Immediately I had second thoughts though, wondering if speaking problems were not rooted in early education and popular culture, raising questions about the efficacy of a single graduate level course.

At almost the same time, I developed an interest in American oratory. In teaching American legal history, I assigned speeches by important figures such as Frederick Douglass, John C. Calhoun, Abraham Lincoln, and Elizabeth Cady Stanton. I studied the structure and came to appreciate the power of great nineteenth-century oratory. I also helped create an annual event at our school to celebrate Martin Luther King, Jr.'s birthday. This led to a closer examination of the genius of one of the great orators of the twentieth century. All of this inevitably suggested possibilities for teaching the subject. I thought, if we can teach legal writing, why not public speaking for lawyers? What follows tells of my own efforts to answer that question.

This Essay has two aims. Most immediately, I hope to persuade the reader of the value of teaching Public Speaking for Lawyers in the law school curriculum. In my experience, this is a class that students find enormously rewarding, even in the often dreary last semester of law school. The class brings surprising personal and professional rewards for its teacher as well. Law professors are public speakers, of course, teaching by oral presentations to groups with different levels of legal expertise. It turns out that teaching public speaking will make us better speakers and teachers, generally.

My second aim is to renew interest in public speech. Today we hear occasional laments for the sad state of oratory in politics,² or sermonizing in the pulpit,³ but not so with respect to the legal profession, and certainly not speaking by lawyers outside of litigation. This does not mean that the current state of legal public speaking is good; it is more likely a sign that no one even thinks to complain. Yet, in even the most mundane setting, a public speaking lawyer can aspire to qualities of presence, clarity, eloquence, and passion that can transform an ordinary speech opportunity into something much more.

² E.g., Joe Klein, *Where's the Music?: Why No One's Listening to What the Candidates Have to Say*, NEW YORKER, Sept. 27, 1999, at 36 (lamenting the state of national political oratory).

³ E.g., WHAT'S THE MATTER WITH PREACHING TODAY? (Mike Graves ed., 2004) (containing contemporary essays taking up the question originally posed by Harry Emerson Fosdick in 1928).

I begin with a quick look at public speaking in the history of Western culture, then take on the practicalities of teaching public speaking in law school (potential objections, structure, challenges, and rewards), and finally provide a sampling of the substance of what might be taught in such a course.

I. PUBLIC SPEAKING YESTERDAY AND TODAY

There was a time, not long ago, that oratory was among the most celebrated forms of human expression.⁴ Formal speech carried great weight, and its creation and delivery was accorded great attention.⁵ In literature, politics, and religion, the spoken word was for most of Western history a critical, or even predominant, means of expression.⁶ From the verse of Homer and Dante to Shakespeare's plays, many of the greatest works of literature were composed with an ear to how they would sound aloud.⁷

In both the Greek and Roman republics, the ability to speak well was central to statesmanship and was the subject of considerable study and critique.⁸ Oratory also played a major role in the early political history of the United States, from the revolutionary speeches of James Otis and Patrick Henry, to the rhetorical battles that culminated in the Civil War and included speeches by such legendary figures as Daniel Webster, Henry Clay, John C. Calhoun, Stephen Douglas, and Abraham Lincoln.⁹

Equally formative for the new nation was speech from the pulpit, from the early Puritans in New England in the seventeenth century, to the evangelism of the Great Awakening in the eighteenth century, continuing

⁴ See WARREN CHOATE SHAW, *HISTORY OF AMERICAN ORATORY*, at iii (1928).

⁵ See *id.*

⁶ See *infra* notes 9–11 and accompanying text.

⁷ See JOHN MCWHORTER, *DOING OUR OWN THING: THE DEGRADATION OF LANGUAGE AND MUSIC AND WHY WE SHOULD, LIKE, CARE* 54–55, 64 (2003).

⁸ *E.g.*, 1 CICERO, *DE ORATORE* (E.W. Sutton trans., Harvard Univ. Press 1948) (1942); PLUTARCH, *THE LIVES OF THE NOBLE GRECIANS AND ROMANS* 691–725 (John Dryden trans., 1952), *reprinted in* 14 *GREAT BOOKS OF THE WESTERN WORLD* (Robert Maynard Hutchins et al. ed., 1952) (on Demosthenes, Cicero).

⁹ See generally SHAW, *supra* note 4. The significance of oratory to political liberty was more apparent to earlier generations than our own. One late nineteenth-century American lawyer began his history of American oratory by stating: “Oratory is the parent of liberty.” HENRY HARDWICKE, *HISTORY OF ORATORY AND ORATORS*, at v (1896). For oratory in the revolutionary period and the new republic, see SANDRA M. GUSTAFSON, *ELOQUENCE IS POWER: ORATORY & PERFORMANCE IN EARLY AMERICA* 140–265 (2000).

until today.¹⁰ Public speech was also, for much of our history, a popular form of entertainment and education, whether it occurred in the courtroom, in politics, or in public lectures such as those of the lyceum and later Chautauqua movements.¹¹

Oratory has long served as an important means by which the less powerful have gained the attention of the powerful in America. Native American oratory made a deep impression on many European settlers, sometimes positively and sometimes not.¹² Female speakers, though frequently discouraged, ridiculed, and sometimes forcibly suppressed, made major contributions to social change on issues from abolition to temperance to women's suffrage.¹³ Perhaps the most notable form of this oratory, however, was that of African Americans. From the speeches of nineteenth-century abolitionist figures such as Frederick Douglass and Sojourner Truth, to the rhetoric of civil rights figures of the later twentieth century, such as Martin Luther King, Jr. and Malcolm X, the voice of black America has found powerful expression in formal speech.¹⁴

Early American law was consistent with this oral tradition, as it privileged oral expression in the courtroom, its most important forum (then

¹⁰ On the Puritans, see GUSTAFSON, *supra* note 9, at 14–19; HARRY S. STOUT, *THE NEW ENGLAND SOUL: PREACHING AND RELIGIOUS CULTURE IN COLONIAL NEW ENGLAND* 23–31 (1986); on the Great Awakening, see J.M. BUMSTED & JOHN E. VAN DE WETERING, *WHAT MUST I DO TO BE SAVED?: THE GREAT AWAKENING IN COLONIAL AMERICA* 71–95 (1976); DAVID S. LOVEJOY, *RELIGIOUS ENTHUSIASM IN THE NEW WORLD: HERESY TO REVOLUTION* 178–94 (1985); GEORGE M. MARSDEN, *JONATHAN EDWARDS: A LIFE* 1–10 (2003).

¹¹ See, e.g., CARL BODE, *THE AMERICAN LYCEUM: TOWN MEETING OF THE MIND* 19–26 (1956); JOHN E. TAPIA, *CIRCUIT CHAUTAUQUA: FROM RURAL EDUCATION TO POPULAR ENTERTAINMENT IN EARLY TWENTIETH CENTURY AMERICA* 205–07 (1997). For some sense of the nineteenth-century culture of the public lecture, see HENRY WARD BEECHER, *LECTURES TO YOUNG MEN, ON VARIOUS IMPORTANT SUBJECTS* (1873).

¹² See GUSTAFSON, *supra* note 9, at 33–35, 75–118.

¹³ See, e.g., ELISABETH GRIFFITH, *IN HER OWN RIGHT: THE LIFE OF ELIZABETH CADY STANTON*, at xiii–xx (1984); GUSTAFSON, *supra* note 9, at 19–33, 246–57; NELL IRVIN PAINTER, *SOJOURNER TRUTH: A LIFE, A SYMBOL*, 164–78 (1996). See generally *THE SPEECHES OF FAMOUS WOMEN: FROM SUFFRAGETTE TO SENATOR* (MPI Home Video 1995).

¹⁴ See *AFRICAN-AMERICAN ORATORS: A BIO-CRITICAL SOURCEBOOK*, at xi–xxii (Richard W. Leeman ed., 1996); *LIFT EVERY VOICE: AFRICAN AMERICAN ORATORY, 1787–1900*, at 1–16 (Philip S. Foner & Robert James Branham eds., 1998). Any consideration of African-American oratory must also consider the distinctive preaching of the African-American church. For a modern view, see Cleophus J. LaRue, *Two Ships Passing in the Night, in WHAT'S THE MATTER WITH PREACHING TODAY?*, *supra* note 3, at 127, 127–41.

more so than today).¹⁵ In litigation, the ability to speak eloquently and passionately was prized not only by lawyers who relied upon it to persuade decisionmakers—judicial or lay—but also by judges who were wont to give long speeches to the juries that they instructed.¹⁶

This brief history serves to remind us not only of where we have come from but also how different our situation is today. Two modern developments in particular distinguish contemporary culture from that of our predecessors: first, the transition from predominantly oral to written discourse in many fields of thought, especially law; and second, a shift in the style of oral discourse from formal speech to conversational informality.

During the nineteenth century, American legal culture gradually became more literate and less orally oriented.¹⁷ The advent of modern legal publishing made case reports and legal commentaries more widely available, leading to the creation of a large legal literature.¹⁸ The availability of these works meant that the primary source of knowledge about law would be text-based rather than the collective memories and understandings of the legally trained. Codification of law also contributed to the elevation of text over speech by placing statutory language at the center of discourse.¹⁹ In contemporary law, almost every important argument or action either takes written form or is soon reduced to writing. The modern lawyer—with few exceptions—relies on legal texts for authority, finding essential principles of freedom and order in the written words of constitutions, statutes, and case decisions.²⁰ The spoken word today is a poor cousin to its written counterpart in most legal settings.²¹

¹⁵ See LAWRENCE M. FRIEDMAN, *A HISTORY OF AMERICAN LAW* 312 (2d ed. 1985).

¹⁶ See *id.* at 312–14.

¹⁷ See *id.* at 314, 322–33.

¹⁸ See *id.* at 322–25.

¹⁹ See *id.* at 391–98, 403–11.

²⁰ For a fascinating study of the move from oral to written conceptions of Anglo-American law, see Peter M. Tiersma, *The Textualization of Precedent* (Loyola Law Sch. L.A. Legal Studies Research, Research Paper No. 2005-6, 2005), <http://ssrn.com/abstract=680901>.

²¹ See, e.g., R. Kirkland Cozine, *The Emergence of Written Appellate Briefs in the Nineteenth-Century United States*, 38 AM. J. LEGAL HIST. 482, 483–84 (1994). Another example is the continuing debate about the usefulness of oral argument before appellate courts. Compare Myron H. Bright, *The Power of the Spoken Word: In Defense of Oral Argument*, 72 IOWA L. REV. 35, 36 (1986) (arguing the importance of oral argument in appellate advocacy), with Robert J. Martineau, *The Value of Appellate Oral Argument: A* (continued)

None of this means that speech has become unimportant. Much of our most important communication in law, as in politics and religion, still involves oral expression. Nothing can compete with speech for immediacy of impact. Oral arguments, whether in or out of court, still determine the outcome of controversies. Speech remains vital to political and religious discourse. Yet, even where speech remains preeminent, its nature has changed. Contemporary scholars have noted that beginning in the early twentieth century, public speech has gradually moved from an ornate, literary, and overtly impassioned form of expression, to one that aspires to the simplicity, directness, and relative calm of conversation.²² Since at least the time of Franklin Delano Roosevelt's radio broadcasts in the 1930s (his so-called fireside chats),²³ American public culture has moved steadily away from formal discourse in public speech to the conversational.²⁴ Public figures are more likely to reach the public in relatively unstructured speaking engagements, as in media interviews, press conferences, and talk

Challenge to the Conventional Wisdom, 72 IOWA L. REV. 1, 22, 32–33 (1986) (disputing the conventional view that oral argument is important to the appellate process).

²² See KENNETH CMIEL, DEMOCRATIC ELOQUENCE: THE FIGHT OVER POPULAR SPEECH IN NINETEENTH-CENTURY AMERICA 11–12 (1990); MCWHORTER, *supra* note 7, at 33–72. McWhorter argues that the same move to the informal has occurred in writing. MCWHORTER, *supra* note 7, at 121–65.

²³ See MCWHORTER, *supra* note 7, at 52.

²⁴ Cmiel states that this change occurred late in the nineteenth century. See CMIEL, *supra* note 22, at 13. He quotes the widely influential Dale Carnegie on the importance of plain speaking in public speech:

A modern audience, regardless of whether it is fifteen people at a business conference or a thousand people under a tent, wants the speaker to talk as directly as he would in a chat, and in the same general manner that he would employ in speaking to one of them in conversation.

Id. at 259 (quoting 1 DALE CARNEGIE, PUBLIC SPEAKING: A PRACTICAL COURSE FOR BUSINESS MEN 197–98 (1928)).

The advent of conversational speech hardly eliminated more formal speech, however. For example, Roosevelt was also a talented orator in the traditional sense. See DAVIS W. HOUCK, FDR AND FEAR ITSELF: THE FIRST INAUGURAL ADDRESS (2002). Oratory also remained of particular importance to oppressed groups, especially African Americans. See DAVID L. CHAPPELL, A STONE OF HOPE: PROPHETIC RELIGION AND THE DEATH OF JIM CROW (2004); RICHARD LISCHER, THE PREACHER KING: MARTIN LUTHER KING, JR. AND THE WORD THAT MOVED AMERICA (1995).

shows, rather than through formal speeches. Public figures worry more about sound bites than speech construction.

From this brief cultural history, we can see why the study of public speaking may have declined in institutions of higher education.²⁵ We live in a time in which serious thought is expressed primarily in writing, not speech. Yet the basic communicative challenge of an individual speaking to a group on a matter of public concern has not changed. Lawyers remain, as they have always been, important public speakers on matters of public controversy. But with less attention to public speaking, the state of the art has almost certainly declined.²⁶

II. PUBLIC SPEAKING IN THE LAW SCHOOL CURRICULUM:

ANSWERS TO SOME BASIC QUESTIONS

Now to the practical. What objections might be raised to teaching public speaking in law school? I suspect that administrators and faculty will want answers to at least four different queries before agreeing to this innovation: (1) whether this course can be distinguished from others in the curriculum, especially trial advocacy; (2) whether it has real intellectual content; (3) whether it can be taught effectively in the classroom; and, assuming affirmative answers to the foregoing, (4) a resolution as to who should teach and who should take the course.

A. *Isn't Public Speaking Already Taught in Trial and Appellate Advocacy Courses?*

The simple answer is no. Trial and appellate advocacy courses focus on specialized oral skills needed for litigation, while the public speaking

²⁵ For a critical look at the study of rhetoric at one university from the early nineteenth century to the present day, see Jay Heinrichs, *How Harvard Destroyed Rhetoric*, *HARV. MAG.*, 37, 37–42 (July–Aug. 1995). Illustrating the place of rhetoric and enunciation in early American education is NOAH WEBSTER, *AN AMERICAN SELECTION OF LESSONS IN READING AND SPEAKING* 3–13 (reprint ed. Arno Press 1974) (1789).

²⁶ See MCWHORTER, *supra* note 7, at 42–47. The shift in style, and perhaps also eloquence, can be seen in comparisons between contemporary and past presidents. Compare RONALD C. WHITE JR., *LINCOLN'S GREATEST SPEECH: THE SECOND INAUGURAL* (2002), and GARRY WILLS, *LINCOLN AT GETTYSBURG: THE WORDS THAT REMADE AMERICA* (1992), with HOUCK, *supra* note 24 (discussing Franklin D. Roosevelt's first Inaugural Address). The point should not be pushed too hard, however. A great deal of nineteenth-century oratory was verbose, melodramatic, and overly ornate—rococo coverings for shallow content.

course for which I advocate focuses on how to speak to general audiences in non-litigation settings.

When we think about oral skills in the law we naturally think of the courtroom and related venues. We imagine trials, motions practice, court hearings, depositions, administrative hearings, and other instances of modern litigation. Lawyers do much more than litigation, however, and probably most public speaking that lawyers do takes place outside of litigation. Lawyers often speak to lay groups about various matters of legal controversy. They may appear before legislatures, city councils, planning commissions, or give talks to civic groups, business executives, or company employees. Lawyers also may need to give media interviews on behalf of clients when a controversy arises. Each of these tasks involves a speech performance that will help shape the lawyer's professional reputation. And each may involve different methods than oral representation in litigation.

Classes in trial and appellate advocacy will always emphasize the particular demands of litigation. Theories of the case, rules of evidence and procedure, forms for motions and briefs, how to ask a proper question on direct or cross examination, how to handle a witness's surprises, and how to communicate with an appellate judge, will occupy a great deal of teacher and student time. Speaking to a lay audience in what is usually a relatively unstructured format—at least compared to litigation—involves different challenges. As explained further below, these addresses often require the lawyer to become a law teacher. They require the lawyer to create a structure that meets the audience's needs and background. And they demand that the lawyer develop a public persona appropriate to the setting, one that may be quite different from what is needed in litigation.

Advocacy and public speaking classes will certainly overlap to some extent. Skills developed in advocacy will help in public speaking and vice versa. But just as there should be room in the law school curriculum for different legal writing courses—including those that focus on appellate briefs, contract drafting, or legal scholarship—there should be room for classes on different forms of oral advocacy.

B. Is Public Speaking Really Suitable for a Graduate School Curriculum? Does It Have Legal Content or Is It Really a Form of Vocational—or Even Remedial—Training?

When I first proposed the idea of a public speaking class at my school, no one actually objected, but I did detect a certain skepticism among colleagues about its, shall we say, intellectual *gravitas*. I recall mentioning at a committee meeting that this course would be offered next semester and

witnessing another faculty member's reaction. She was polite enough not to say anything, but she could not have looked more disdainful if I had said that we were going to teach Finger Painting for Lawyers. Her look screamed: "Please. Tell me you're joking. This is a *law* school." Which raises the question: does this course have intellectual content, or is it like teaching how to dress for success, write a résumé, or interview for a job—matters that while of practical importance, do not merit an academic offering?

Properly constructed, a public speaking course makes serious intellectual demands on its students. Like legal writing, good public speaking by lawyers requires good legal analysis. Public speaking for lawyers is, among other things, a course in legal analysis.

To speak well about the law, the lawyer must first understand her subject. She must comprehend the essential principles and the tensions between the various rules and precedents involved. The speaker must then determine how best to convey this understanding for a lay audience. She must explain legal concepts to listeners who generally are not conversant in the specialized legal terms that lawyers employ. In short, the legal public speaker must teach law. The speaker must not only understand the concepts well enough to use them in practice, but also well enough to explain them to lay persons. As any law teacher knows, the latter requires an entirely different level of understanding.

Even granting the educational/analytic dimension to the course, however, there is an important pedagogical question about this endeavor that deserves consideration here: how much emphasis to give substance versus performance. In critiquing public speech, there is a natural tendency to emphasize performance.²⁷ We focus on the performer's apparent nervousness, vocal glitches like "ums" and "ahs," eye contact and gesture, and the strength and modulation of voice. These are the most obvious flaws, but not necessarily the most important, especially for a legal speech. When lawyers speak in public, I would contend that what they say matters more than how they say it. Even in his day, Abraham Lincoln was not renowned as a public speaker because he was a great public performer—eyewitnesses recount that he had an awkward physical manner²⁸ and a rather high-pitched speaking voice.²⁹ Rather, he was a

²⁷ See JEFF SCOTT COOK, *THE ELEMENTS OF SPEECHWRITING AND PUBLIC SPEAKING* 156, 204–05 (Collier Books 1991) (1989).

²⁸ See WHITE JR., *supra* note 26, at 54–59.

²⁹ CARNEGIE, *supra* note 24, at 138–39.

great speech *writer*.³⁰ His wording was precise and evocative, his arguments tightly structured.³¹ Thus, a considerable amount of time and attention in this course should be devoted to the speaking text—to how a speech is constructed.³²

This brings us to another source of disquiet about teaching public speaking: isn't this a skill often put to bad uses? The answer is yes. The demagogic politician, the unscrupulous salesman, the con man, and of course the glib, amorally manipulative lawyer all exemplify how speaking skills may be abused.³³ But then all lawyering skills may be abused. They may be employed for good or ill. As educators, we can only strive to encourage ethical uses by emphasizing ethics as part of education. This means that, as with every other legal subject, ethics must be a part of public speaking. Ethics provides another reason why teachers should emphasize substance over performance.

C. Can Public Speaking Really Be Taught in a Law School Classroom?

A related, though distinct, concern is that public speaking skills may not be teachable in a law school class. Some speakers appear so naturally gifted that it may seem that speaking is an innate talent that one either has or does not, like the ability to sing, tell a joke, or dunk a basketball. If so, it would be a poor use of scarce resources to try to teach public speaking to a general law school population. It turns out, however, that the premise is faulty. While it is certainly true that, without any formal training, some students display more speaking ability than others, the same can be said for any other skill relevant to lawyering. Despite considerable efforts to quantify qualifications, students enter any given law school with quite different abilities to analyze legal problems or negotiate solutions. These

³⁰ See CMIEL, *supra* note 22, at 116–20.

³¹ See WHITE JR., *supra* note 26, at 69–70.

³² Another dimension of public speaking that I will not deal with here, but that may be of considerable interest to other law professors, is the possibility of structuring the course around the study of rhetoric—how arguments are made. This makes the course more about the nature of argument generally rather than the particulars of oral discourse. For a sense of the modern field of rhetoric, see EDWARD P.J. CORBETT, *CLASSICAL RHETORIC FOR THE MODERN STUDENT* (3d ed. 1990).

³³ In the classical world, the character of the speaker was seen as critical to the force of his speech. See ARISTOTLE, *ON RHETORIC* 78–87 (George A. Kennedy trans., 1991). This remains true today, though in a more populous world, audiences have less opportunity to judge character independent of the speech itself.

abilities can be significantly improved with law school education. The same is true of public speaking.³⁴

Based on my experience teaching this course, I believe that it can work a significant improvement in the public speaking skills of most students who take it. The worst speaker cannot be made great in a semester; but every student in a class of twenty can significantly improve their skills. Nor does this improvement demand particular ability on the part of the teacher. A great deal of improvement comes from simply practicing and critiquing public speech in a group. During the semester, students have more opportunities for public speaking practice and critique than most have had before or will again. The experience of performing and listening focuses attention on the qualities of good and bad speaking and strongly motivates efforts to improve. A highly skilled teacher should be able to inspire greater improvement than others, but I certainly would not attribute most of my students' improvements to my teaching acumen.

D. Who Should Teach the Course and Who Should Take It?

I would give the same answer to both queries: whoever is interested in the subject and committed to the effort. Some teachers may be better qualified than others to teach the course; some students may need it more than others. But given the current lack of such offerings at most law schools, I see no reason to be especially selective with respect to either students or teacher.

Still some may wish to know: how did I obtain the knowledge and experience needed for such a specialized course? Well, candidly, my most important qualifications were twofold: (1) I was already a tenured member of the faculty, and (2) I had come up with the idea for the class. My other credentials were rather weak. In terms of experience in public speaking, I was never on a debate team and never ran for electoral office, even in school. My acting career peaked in my (albeit landmark) role as the Thanksgiving turkey in a kindergarten production. Although I had a number of jury trials as a federal prosecutor, my career as a trial lawyer was short. My greatest source of practical experience was that for more than sixteen years I had taught large law school classes. As for academic background, I had never taken a public speaking class, an acting class, or

³⁴ It is also likely true that, like writing, public speaking can be self-taught. Plutarch certainly suggests this in his portrait of the Greek orator Demosthenes. PLUTARCH, *supra* note 8, at 694–95. Abraham Lincoln had a total of about one year of rudimentary schooling and no formal training in law except through reading. DAVID HERBERT DONALD, LINCOLN 29, 47, 53–55 (1995).

received voice lessons. I had never studied rhetoric. I tried reading up on Greek and Roman oratory in preparation for the class, but frankly never got very far. Still, did I mention this already?—the class was my idea.

The bottom line is that I went into the course as most other law professors would—as an interested amateur. While this has its disadvantages, I like to think that my relative lack of background also presented some advantages. I could see the subject fresh and focus on the special challenges of public speaking for lawyers. At least that's what I argued to myself.³⁵

As for who should take this course, again I can only speak from my limited experience. The students in the two Public Speaking classes that I taught came from many different backgrounds. Some had excelled in law school and some were just scraping by academically. Ethnically, racially, and gender-wise it was at least as diverse a group as the student body as a whole, meaning it was quite diverse. In terms of interest in public speaking, there were in each class two identifiable groups: those who loved performing in public and those who approached it with real trepidation. The former tended to have significant experience in public speaking, confidence in their own skills, and often had taken or were taking advocacy classes. Many were heading for careers in litigation. Students in the latter group had neither a background in public speaking nor confidence in their abilities, but wanted to improve their speaking skills. For some, English was not their first language, but more often they simply did not do well when speaking to a group. Finally, there were a number of students who did not fall into either camp, but who enrolled for a mix of motives involving schedule, teacher, interest, and the lack of a written final.

Both times I taught the course, it proved popular. I limited enrollment to twenty students to ensure that each student had sufficient speaking opportunities in class, and each time the course was substantially oversubscribed. In fact, if I recall correctly, the last time I taught it, more than forty students originally signed up. Because it was so popular, the school's registration priority system determined the final roster, meaning that only second semester third-year students—those with the highest priority numbers—could take the class. I had some reservations about a class of only graduating students, because it had been my experience that as the final semester of law school wears on, *sometimes* the graduating student's engagement in the academic endeavor wanes. In truth, I did need

³⁵ Usually fairly persuasively, I might add. Self-confidence is just as important in teaching as in public speaking—probably for the same reasons.

to issue periodic reminders about the importance of attendance, especially when students were not specifically scheduled to perform in class. Overall, however, student commitment was high from start to finish. It definitely helps student motivation that poor performances are publicly witnessed.

III. COURSE GOALS

I wanted to help students develop five different qualities, in rough order of importance: (1) presence, (2) personal voice, (3) rhetorical skills, (4) performance skills, and (5) an appreciation for the art of public speaking. Each of these requires a brief explanation.

Presence is a quality that I detail further below, but is essentially the state of being fully engaged with the audience. By personal voice I mean not the physical quality of voice, which I include under performance skills, but an authentic and effective public persona. This is also discussed further below. Rhetorical skills refer to the ability to analyze a problem and structure an effective presentation for a particular group. They are the basic skills needed for writing a speech or extemporaneously constructing one. Performance skills involve all the physical aspects of speaking, from voice projection and articulation, to posture, gesture, and intonation. Finally, I wanted students to develop an appreciation for oratory by critiquing a variety of famous speakers. Becoming a good critic of others' work builds skills for critiquing one's own.

IV. COURSE STRUCTURE

The course was built around two videotaped, graded exercises of roughly ten to twelve minutes each, one at mid-semester and the other at the end of the semester. The first was an explanatory presentation, requiring students to explain a legal doctrine to a lay audience. The second was a persuasive speech, in which students presented an argument on a topic of legal controversy to a predominantly lay audience. I helped students shape their topics and made sure that they involved the law, but otherwise they chose the subject matter. Often students spoke about an area in which they had been working or hoped to work. Topics ranged from the very specific—such as water storage rights under federal law, new federal privacy regulations in health care (e.g., HIPAA),³⁶ and copyright rules—to more general topics such as the death penalty. Some students used the same general subject for both explanatory and persuasive

³⁶ Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936 (codified as amended in scattered sections of 18, 26, 29, and 42 U.S.C.).

presentations. For each presentation, part of the assignment was for the student to imagine a particular lay audience and design a talk for the audience and the time allotted.

Additional components for the final grade were general class participation and a short paper—a three to five page speech critique based on an observation of a public speech outside of class during the semester. These also covered a considerable range, from talks by a former death row inmate, to the Dalai Lama, to a talk given at a fashion show for Armenian-American women.

Students did numerous ungraded speaking exercises in class in addition to the two graded presentations. I had hoped to have every student perform and be critiqued at least every other class, or in other words, at least once a week. (It was a three unit class, with two 90 minute sessions per week.) This was feasible with the ungraded exercises, but there were longer gaps between performances when the students did the graded exercises.

Students did an initial ungraded exercise in which they paired up to interview each other and then introduced the other student to the class. The next exercise was to deliver a text written for oral speech by someone else (though I did make an exception for one student who recited a poem of her own). Dramatic monologues from movies proved a popular choice. One of the most successful ungraded exercises was for each student to tell a personal story—relate a narrative that revealed something about themselves. Some were quite funny; a few were poignant. One student related how she left Russia for the first time at age seventeen or eighteen to fly to Los Angeles to attend college—and because of a mix-up in dates had to, with very limited English, find a place to stay before the urban campus opened a day later. Her account had this parent's heart beating fast and palms sweaty. A young man recounted how, during junior high, he had been pulled out of class to go to the principal's office so that his mother could tell him that she and his father were getting divorced. The story had him and most of the class choked up. We also had exercises that involved handling the media—both playing reporters and playing an interviewee. This segment was enormously assisted by a talk by my colleague and friend Laurie Levenson, who has extensive experience working with the media.³⁷

³⁷ Professors Levenson and Erwin Chemerinsky have written a series of pieces on serving as a legal commentator for the media. See Erwin Chemerinsky & Laurie Levenson, *The Ethics of Being a Commentator*, 69 S. CAL. L. REV. 1303 (1996); Erwin Chemerinsky & Laurie Levenson, *The Ethics of Being a Commentator II*, 37 SANTA CLARA L. REV. 913 (continued)

Interspersed throughout the class, I also presented examples of great oratory from our history. We analyzed the texts of speeches by Frederick Douglass and Abraham Lincoln and watched and commented on video clips of speeches by Franklin Delano Roosevelt, Richard Nixon, Martin Luther King, Jr., Robert F. Kennedy, Barbara Jordan, and Ronald Reagan.³⁸

V. CHALLENGES

When I was planning this course, one of my concerns was that I would not have enough material to fill up class time. There was no standard format or textbook for the class.³⁹ I worried about running out of things to do or discuss. As it turned out, class time *was* a problem, but for the opposite reason—there was never enough. The exercises and critiques always took longer than planned, and not because we wasted time. It is simply a time-intensive endeavor. As a result, we did less formal oratorical study than I would have liked.

Another early concern was grading. Initially I wanted to teach the course pass/fail on the notion that the course was about individual improvement and not competitive assessment. Unfortunately, our curricular rules did not permit this. In the end, my guess is that grading kept both students and teacher more engaged, and for the most part did not seem to interfere with the learning process. By using a relatively low

(1997); Erwin Chemerinsky & Laurie Levenson, *The Ethics of Being a Commentator III*, 50 *MERCER L. REV.* 737 (1999).

³⁸ Many of the clips were from a videotape series entitled *GREAT AMERICAN SPEECHES: 80 YEARS OF POLITICAL ORATORY* (Pieri & Spring Productions 1995), narrated by Jody Powell.

³⁹ In terms of possible texts for the course, a number of textbooks are available that are designed for undergraduate speaking classes. *E.g.*, DAVID ZAREFSKY, *PUBLIC SPEAKING: STRATEGIES FOR SUCCESS* (3d ed. 2002). I used the Zarefsky book the first year I taught the course, but the second time around I did not think it was worth its considerable expense given how little I had actually used it in class. Somewhat more useful, and definitely less expensive, were several books in Allyn and Bacon's "The Essence of Public Speaking Series," which are designed for a variety of professional presentations. *See, e.g.*, RALPH HILLMAN, *DELIVERING DYNAMIC PRESENTATIONS: USING YOUR VOICE AND BODY FOR IMPACT* (William D. Thompson ed., 1999); ALAN M. PERLMAN, *WRITING GREAT SPEECHES: PROFESSIONAL TECHNIQUES YOU CAN USE* (William D. Thompson ed., 1998); JOANNA SLAN, *USING STORIES AND HUMOR—GRAB YOUR AUDIENCE!* (William D. Thompson ed., 1998). Finally, there are a number of speech collections that might be used. *E.g.*, *GREAT AMERICAN SPEECHES* (Gregory R. Suriano ed., 1993).

standard deviation that compressed scores around the median, I was able to give final grades roughly reflective of effort and accomplishment.

The key to effective evaluation in the course, I discovered, was the use of detailed scoring sheets for the graded assignments. The first time I taught the course, I informed students of my general criteria for each graded presentation, then provided them with a numeric score accompanied by extensive written comments. Given that I had not evaluated speeches before, this seemed the best I could manage in terms of notice and feedback. Students accepted this, but their class evaluations indicated that they were not comfortable with it. For my second time teaching the course, I took the advice of other skills instructors at my school and drew up scoring sheets, copies of which are attached as an appendix. These give clear notice of particular criteria and their relative importance. Developing these also forced me to think much harder about my own criteria for assessment. In the end, though, I'm not sure that my grading with the scoring sheets was significantly fairer or more reliable than it had been previously. Evaluation of public speech is necessarily subjective, and as with grading in other classes, while I had confidence in my ability to identify the best and the worst performances, the distinctions in the middle are often debatable. The most important benefit of the scoring sheets was that they gave students more confidence in the fairness of the process.

Although probably not as demanding as equivalent work in a legal writing class, the evaluations for public speaking require significant time and energy. For each graded presentation, I made extensive general written comments that made points applicable to all students, and then also wrote comments specific to each student. The general comments often ranged about five pages, single-spaced; individual comments were about one page each, also single-spaced. Following the first graded assignment—the explanatory presentations—I scheduled individual appointments with each student to go over their performances, often including a review of the videotape of their performance. I needed to cancel a week of class sessions to complete all the appointments.

A continuing challenge in the class was to find ways to critique constructively—to be supportive of student efforts but specific enough in critique to promote improvement. For ungraded assignments, I asked students to critique each other. This kept nonperforming students engaged and helped develop their own critical capacities. Equally important, it gave speakers the benefit of a broader range of critical sensibilities. Students often had a different take on a performance than I did, an important reminder about the pluralist challenge of public speaking.

Successful speakers reach a wide range of listeners, not just people like themselves.

VI. REWARDS

So did it work? Did students become skilled public speakers in the course of the semester? In my view the course did work, with all students improving in their speaking abilities, usually in proportion to their effort and ability to hear criticism. As in legal writing, and probably most substantive courses as well, the most skilled students at the beginning were the most skilled at the end. There were often changes in the relative position within the middle group of students, but in neither of my two classes were there any Pygmalionesque total transformations.⁴⁰

Students in the course were usually pleased and sometimes astonished at its practicality. They were generally impressed by the improvements of their fellow students and themselves. Most felt that it was a course that should be widely available, perhaps even required.

As for the teacher's rewards, these are substantial and come in several different forms. Teaching the class made me a better speaker. I now take more care in preparing for any speaking opportunity, not only working harder on the text but also taking time to practice delivery. I have developed different sides of my public speaking, becoming more personal, more passionate on occasion, and also more humorous.

The course was also rewarding in building teacher-student relations. The teacher in this course must get to know each student as an individual in order to give advice on how he or she should speak. The section on personal voice below goes into this in more detail.⁴¹ The public speaking teacher also can function more as a coach or mentor than in most other courses, emphasizing support rather than competitive assessment. The class also permits more candid discussions between students and teachers about both the legal profession and legal education. Finally, by emphasizing performance skills and cooperative effort, it gives students a break from more cerebral and competitive exam courses.

⁴⁰ The reference here is to GEORGE BERNARD SHAW, *PYGMALION* (1913), *reprinted in* 1 BERNARD SHAW: COMPLETE PLAYS WITH PREFACES 197 (1962), which was later the basis for the stage and screen musical, *My Fair Lady*, in which an English professor of phonetics undertakes to transform a Cockney-accented female servant into someone who can pass for a lady in English high society.

⁴¹ See discussion *infra* Part VII.B.

VII. COURSE CONTENT: A SAMPLING OF SPEAKING ADVICE

So far I have concentrated on the experience of teaching public speaking but have not said much about the substance of the class. What concrete knowledge or advice does the teacher convey to students? To give a sense of this, I provide some thoughts on three aspects of public speaking that I believe are important and helpful: presence, personal voice, and the use of silence.

A. *Presence*

Presence is a quality most apparent when missing. Witness the driver who navigates while talking on the phone, or the store clerk with the plastic smile and scripted greeting who avoids eye contact. Neither are fully present to those with whom he or she interacts. Lack of presence is lack of engagement with others. In any situation where one expects meaningful interaction, lack of presence aggravates because it seems to signal that the person does not care about others present.

Politicians can be readily categorized according to their success in being present for audiences. President Bill Clinton had (and has) presence in nearly all his public appearances; 2004 presidential candidate John Kerry for the most part lacked this quality. Candidate George W. Bush in 2000 had little presence in public speeches (in my view a much more serious problem than his widely noted struggles with grammar and vocabulary), but by 2004 President George W. Bush had real presence at campaign events.

Speakers with presence appear to like themselves and their listeners, an enjoyment that is contagious. Speakers who are fully present are engaged with listeners; there are no barriers between speaker and listener.⁴² By contrast, speakers who lack presence often seem cold, uncomfortable, and disinterested. They project a kind of anxious static that interferes with communication and connection.

Most speakers lack presence because they lack confidence. Their anxiety pushes listeners away, even when listeners are rooting for the speaker to succeed. (And with remarkably few exceptions, listeners usually root for the success of a speaker, at least in the first few minutes of

⁴² To stick with recent political examples, 2004 vice-presidential candidate John Edwards, who made a national reputation for his speaking ability, always made sure that reporters and camera crews did not stand between him and his live audience, even though in political terms, the media audience was more important. *See, e.g.*, David Paulsen, *Campaign Central for a Day*, WAUSAU DAILY HERALD (Wausau, Wis.), Feb. 17, 2004, at 1A.

a presentation.) Creating presence therefore requires building the speaker's self-confidence. This comes with practice and with confidence in the speech's content.

Presence also requires courage. Public speaking is a risky endeavor, requiring the speaker to put him or herself on display for public scrutiny. Social defenses effective in other situations often will not work here. To cite an obvious example, consider the person who is naturally reserved, who feels most comfortable staying in the background in social situations, especially with groups of strangers. Obviously, fading into the background will not work in public speaking, which requires forthright presentations to groups often comprised of strangers. Related traits, such as speaking softly and deferentially may likewise prove counterproductive in public performance. Many other social defenses are less obvious but equally problematic in the speaking context. For example, the lawyer who normally guards his thoughts and feelings in speech and maintains a poker face may find these habits useful in negotiations and litigation, but they are likely to produce a stiff and distant public speaker. Being fully present often means putting ordinary social defenses aside.⁴³

B. *Personal Voice*

A prerequisite to presence is the development of an authentic personal voice. This refers not to vocal performance but to the persona of the speaker. In fiction, movies, and other creative fields, critics speak of the power and distinctiveness of the author's voice. Jane Austen wrote in a different voice than does Toni Morrison;⁴⁴ newspaper columnist Thomas Friedman writes in a different voice than Mike Royko.⁴⁵ Or to range further afield, consider the difference in authorial voice between movie directors Ingmar Bergman and Quentin Tarantino.⁴⁶ Voice potentially

⁴³ This is not to say that public speakers do not have their own social defenses, just that they are often different from those used in informal settings.

⁴⁴ See CORBETT, *supra* note 32, at 482, 494 (providing excerpts from Jane Austen's *Pride and Prejudice* and Toni Morrison's *Beloved*).

⁴⁵ Compare, e.g., Mike Royko, *Even a U.S. Senator Can Botch a Recipe for Success*, CHI. TRIB., Nov. 21, 1995, reprinted in FOR THE LOVE OF MIKE: MORE OF THE BEST OF MIKE ROYKO 154, 154–56 (2001), with Thomas L. Friedman, Op-Ed., *Addicted to Oil*, N.Y. TIMES, Feb. 1, 2006, at A29.

⁴⁶ Compare, e.g., JERRY VERMILYE, *INGMAR BERGMAN: HIS LIFE AND FILMS* (2002) (providing a filmography of Ingmar Bergman), with ANNE E. HILL, *TEN AMERICAN MOVIE DIRECTORS: THE MEN BEHIND THE CAMERA* 89–94 (2003) (providing a filmography of Quentin Tarantino).

includes many dimensions of expression, from tone (formal or conversational, lighthearted or grim, direct or ironic) to perspective (objective or personally engaged).

Finding one's voice means finding a way to speak in a manner that both speaker and audience recognize as authentic. Personal voice must resonate with individual experience and values. Yet the persona of a public speaker may differ from the person's personality when relaxed and in private. Developing a personal voice thus does not require revealing the individual's essential "true" self; rather, it requires developing an aspect of personality suited to public performance. We all have different sides to ourselves, some obvious and some hidden. Public speaking can be a chance to draw on the less-known sides of an individual. A person who is soft-spoken and restrained in conversation with friends may become something of a ham in public performance. Someone not known for humorous remarks may prove funny before an audience.⁴⁷ Speakers may find power in going against stereotype and expectation, men drawing on their more sensitive sides and women on their toughness. Public speaking presents an opportunity to reinvent ourselves.⁴⁸

Voice is hard to teach because it is personal. Each speaker must recognize and build on his or her *own* strengths and weaknesses as a speaker rather than trying to imitate speakers that we most admire. For example, as I usually explain to my students, I consider Martin Luther King, Jr. the greatest orator of recent times, but I have reluctantly concluded that this young African-American Baptist preacher from the south in the mid-twentieth century probably shouldn't serve as the speaking model for a middle-aged white Episcopal law professor in California in the early twenty-first century.

As a teacher I tried to help students with voice by identifying what worked best in their presentations, those moments when the student seemed most effective. It might be a general quality such as a certain shy charm, or facility with straightforward explication; it might be a moment of passion, humor, particular sympathy, or sadness. The challenge then becomes how to build a full persona based on these qualities or moments.

⁴⁷ A well-known recent example was the otherwise very proper Laura Bush's somewhat raunchy remarks at the annual White House correspondents' dinner in 2005. Elisabeth Bumiller, *Desperate White House Wife, Episode 1: The Ranch Hand*, N.Y. TIMES, May 2, 2005, at A19.

⁴⁸ Teachers are familiar with this phenomenon. Most successful teachers have their own public persona in front of a class, which is at least a little different than their non-teaching personality.

With stronger speakers, developing a personal voice often means expanding the speaker's vocal range. It means encouraging the student to leave his or her comfort zone. Will the class clown see the power of a transition from the witty to the somber and do the hard work necessary to bring the audience along with that transition? Will the perennially impassioned speaker find a way to lower the emotional pitch early on to leave room for a more powerful climax? Will the shy speaker find an authentic way to come forward to the audience, perhaps using vulnerability to attract listeners? Will the sweet, soft-spoken student add an edge to her presentation and thereby gain argumentative bite? Is there a way for the tightly wound speaker to acknowledge his own intensity and so allow the audience to view it sympathetically?

C. *Silence*

Silence is one of the simplest and most powerful tools in public speaking, yet also one of the most neglected.⁴⁹ Anxious speakers fear silence the way disc jockeys fear "dead air," seeing it as a sign of failure. Silence certainly can be negative—no one enjoys those unplanned, awkward, and anxious moments when the speaker loses his or her way. Used intentionally, though, silence can contribute greatly to an effective presentation.

Brief silences—pauses—provide oral punctuation. A speech without any pauses is like writing without paragraphs or even periods. The words run together, leaving the audience exhausted and probably confused. Intentional pauses between different portions of a presentation help shape the speech in the audience's mind.

Silence can build dramatic tension. The speaker states: "This, ladies and gentlemen is the most important point—." Then if the speaker says nothing for two or three beats, she will have created interest in the words to come.

Similarly, silence following a statement can conclude and emphasize. Leaving silence after making an important point allows the audience to refresh itself, to take a breath, and to digest what has just been said. An extended silence encourages the listener to go back over what has just been stated, in effect underlining it in the mind.

Silence can contribute greatly to the musicality of speech. Pauses, along with the pace of speech, give a performance its rhythm, determining the forward movement of the piece. Like music, all effective public speech has a flow that works on the body as well as the mind.

⁴⁹ See CARNEGIE, *supra* note 24, at 210.

Finally, silence can help establish an emotional bond between speaker and audience. It can provide moments of deepening relationship, just as in informal encounters.

CONCLUSION

It sometimes seems that we swim in an ocean of talk. With the Internet, e-mail, instant messaging, and cell phones, to mention just the most popular forms of electronic communication today, we are surrounded by chatter.⁵⁰ Our world is so full of utterly disposable talk that we forget that the right words from the right person at the right time can change everything. We forget the difference between speech and talk.

Probably the most powerful piece of oratory that I have shared with my classes is Robert F. Kennedy's speech at Indianapolis in 1968, immediately following news of the assassination of Martin Luther King, Jr. Kennedy learned of King's death while flying to a scheduled campaign stop in Indianapolis.⁵¹ The chief of police and his own wife urged him to cancel his speech in an African-American part of town because of the likelihood of violence.⁵² He decided to speak nevertheless. He opened by announcing King's shooting and death.⁵³ From the audible gasps and muted cries from the crowd, it was clear that most had not heard the news.⁵⁴

The performance that follows has its flaws. Kennedy struggles at times to find his way forward; his voice appears on the edge of cracking.⁵⁵ He gestures repetitively with a folded up text in one hand.⁵⁶ But the evidence of his own grief and the power of his words make the speech utterly compelling. He draws on the personal, speaking of the assassination of his own brother, also by a white man.⁵⁷ He speaks of the need for justice, not violence.⁵⁸ And he closes with a previously memorized quotation from the ancient Greek poet Aeschylus that turns a moment of potential rage and horror into one of profound mourning and

⁵⁰ See generally McWHORTER, *supra* note 7, at 223–54.

⁵¹ ARTHUR M. SCHLESINGER, JR., ROBERT KENNEDY AND HIS TIMES 873–74 (1978).

⁵² See *id.* at 874; EVAN THOMAS, ROBERT KENNEDY: HIS LIFE 366 (2000).

⁵³ SCHLESINGER, JR., *supra* note 51, at 874.

⁵⁴ See *id.*; THOMAS, *supra* note 52, at 366.

⁵⁵ See THOMAS, *supra* note 52, at 366.

⁵⁶ See *id.*

⁵⁷ *Id.*

⁵⁸ *Id.* at 367.

tragedy.⁵⁹ Unlike many American cities, there were no riots that night or in succeeding days in Indianapolis.⁶⁰

Teaching public speaking for lawyers is not fundamentally about producing speakers like Bobby Kennedy—though we might recall that Kennedy, like many of our political leaders, was a lawyer by training.⁶¹ And surely it would not be the worst motivation for this course to try to improve the quality of political discourse in the nation. Nevertheless, I see teaching public speaking for lawyers as fundamentally about producing well-spoken practicing attorneys. Its fruits are more likely to be apparent at educational talks on new legislation and presentations at planning commission meetings than in historic public oratory.

Finally a thought about the role of the legal educator. We law professors often see ourselves working at the cutting edge of legal thought, pushing our profession forward into the future. Yet we also have responsibilities to the past. The legal academy should safeguard and, where needed, revive the best of our legal traditions. Public speaking has been an important part of our legal heritage, as it has been an important part of Western culture. More attention to the art of public speaking in law school can produce real benefits for our profession by helping renew this ancient and honored form of discourse.

⁵⁹ *Id.*

⁶⁰ *Id.* at 368. There were riots in 110 American cities following Martin Luther King, Jr.'s assassination; Indianapolis was not one of them. *Id.*

⁶¹ See SCHLESINGER, JR., *supra* note 51, at 81, 87.

APPENDIX—SCORING SHEETS FOR GRADED EXERCISES

Scoring Sheet—Explanatory Presentation (30 points maximum)**Content (60% total)**

Opening & closing (10%) (3)

(introduction/resolution of major themes,
outline of speech organization, establishing/
confirming audience connection)

Overall organization & problem definition (10%) (3)

(clear definition of problem suitable to
audience and time allotted, logical organization
of material, emphasis of main points
by preview and reinforcement)

Accessibility, accuracy of legal explanation for given audience (20%) (6)

(considering nature of the audience
and complexity of concepts: how well are
legal terms explained, including definitions,
use of examples; legal correctness;
accessibility of language—minimizing
legal jargon, complex constructions;
quantity of legal information for time allotted;
use of visual aids, handouts, guide to
additional resources if appropriate)

Other use of language skills (10%) (3)

(proper word choice, grammar, use of
analogy, rhetorical flourishes including
nice turns of phrase, overall literary qualities)

Interest/appeal (10%) (3)

(includes visuals, humor, use of the personal)

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Delivery (40% total)

Vocal projection – audibility and clarity (20%) (6)
(how well can you be heard by the
audience—volume, articulation)

Fluency & musical qualities (10%) (3)
(speed, lack of verbal glitches
(ums & ahhs, awkward pauses), tone of
voice, melody, rhythm)

Physical presence & poise (10%) (3)
(eye contact, gesture, poise/body language)

TOTAL

Scoring Sheet—Persuasive Speech (30 points maximum)**Content (60% total)**

Opening & closing (10%) (3)

(introduction/resolution of major themes
& speech organization, establishing/
confirming audience connection)

Clarity, coherence and persuasive power of substantive argument (30%)
(9)

(clear framing of controversy and presentation
of powerful & accessible argument suitable
to audience and time allotted; logical
sequence; emphasis of main points by
preview and reinforcement; clear definition/
explanation of critical terms; use of specifics to
support argument, including stories, other
examples, statistics)

Emotional appeal/interest (10%) (3)

(includes—where appropriate—use of the
personal, drama, humor, visuals to enhance
interest, emotional effect)

Command of language (10%) (3)

(proper word choice, grammar, use of
analogy, rhetorical flourishes including nice
turns of phrase, overall literary qualities)

Delivery (40% total)

Vocal projection—audibility and clarity (17%) (5)

(how well can you be heard by the
audience—volume, articulation)

Fluency & musical qualities (13%) (4)

(speed, lack of verbal glitches (ums & ahhs,
awkward pauses), tone of voice, melody,
rhythm)

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Physical presence & poise (10%) (3)		
(eye contact, gesture, poise/body language)		_____
TOTAL		_____

