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Reading, Writing, and Questions in Advance: Teaching English Legal History

by DANIEL KLERMAN*

I INTRODUCTION

After teaching legal history for several years in much the way that John Langbein taught me at the University of Chicago, I have recently made significant changes. My new method consists of four key elements: 1) tell students in advance the questions to be discussed in the next class; 2) require some students to submit written answers to the questions before class; 3) assign only short, primary source readings; 4) ban laptops, record classes, and distribute PowerPoint slides. I discuss the details and rationale for each of these elements below.

II QUESTIONS IN ADVANCE

I always tell the students the main questions I plan to ask in the next class. I do this both orally in the prior class and in writing by putting the questions on handouts that I distribute in each class and post on the class website. As a result, when students do their reading, they can focus on the key issues. In addition, I find that giving students the questions in advance reduces anxiety, sparks out-of-class student conversations, facilitates broader participation in class, and produces more informed classroom discussion.

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III

WRITTEN ANSWERS BEFORE CLASS

The papers are usually two to three pages long and are simply written answers to the questions we will be discussing in class and which were distributed in the prior class. Depending on the size of the class and how often I want each student to write, I divide the class into between two and six groups of equal size. One group is required to write up answers to the day's questions and submit them before class begins. In recent years, my class has usually met Mondays and Wednesdays and has had about twenty students, so I have divided the class into two groups. One group writes for every Monday class, and one group writes for every Wednesday class, so each student writes once a week.

With larger classes that meet more frequently, one could create more groups. For example, if a class met three times a week and there were sixty students, I might create six groups of ten students each, with each group writing once every two weeks. Group 1 would submit answers to one day's class. Group 2 would submit answers to the next class, and so on until all groups had submitted papers, and then the cycle would repeat.

Because my classes were small, I graded these short papers myself. I found that I could grade about ten papers in an hour, and that doing so before class helped me prepare and anticipate the issues and confusions that would arise in class discussion. With bigger classes, the grading would become overwhelming, and teaching assistants would be necessary.

To ensure that the workload is not excessive for the students, I reduced the amount of reading I assigned, as discussed below. I find that students benefit tremendously from putting their thoughts on paper. In addition, the mandatory writing assures that a substantial fraction of the class is well-prepared and eager to participate.

IV

PRIMARY SOURCE READINGS

For each class, I assign only short, primary source documents. For example, a typical class assignment might be *Magna Carta* (4 pages), *Somerset v. Stewart* (6 pages), or three short assumpsit cases (5

pages). These short readings, together with the questions in advance and writing assignments, help students focus their class preparation and really master what they read.

I use a portion of the prior class to give students the background they need to understand the readings for the next class. As a result, secondary source readings are not necessary. By keeping the readings short and telling students the questions in advance, I find that class discussion is much enhanced and students have a much greater understanding of both the process of making sense of the past and why multiple interpretations are possible. In addition, I find that the focus on primary materials helps students understand what historians actually do. Too many think that a historian is someone who just reads lots of history books.

To reinforce the importance of careful readings of primary source materials, my exam is structured much like class assignments—two or three short primary source documents they have never seen before, each followed by a few questions that require close reading of the text in light of information and insights from class materials, discussion, and background lectures.

V

LAPTOPS, AUDIO RECORDINGS, AND POWERPOINTS

I find that laptops have two pernicious effects. Many students who are paying attention turn into stenographers, striving to record my every word rather than participating or thinking about what is being said by their classmates. Other students can't resist the temptation to check their e-mail or surf the web. So I ban laptops, iPads, and similar devices. In return, I make an audio recording of every class and post it on the web. I used to do this with a portable digital voice recorder, but most smart phones now have audio recording capability, and many classrooms are wired to record automatically. In addition, I distribute paper versions of my PowerPoint slides, and most students take their notes directly on the slides.

Because posting audio recordings might tempt some students to skip class, I require attendance, and enforce this requirement through random calling. If I call on a student who isn't present and who hasn't e-mailed a valid excuse in advance, that counts against his or her grade.

VI CONCLUSION

While I first developed this teaching method for the Anglo-American Legal History course I taught undergraduates at Caltech, I have found that this method works equally well at law schools and for both legal history and modern law classes. You can find more details about these methods, as well as my slides and other materials, by going to www.klerman.com and clicking on the “Legal History” button at the left.