The Socratic Method of Teaching Law

Every law student has heard at least one story about a stodgy professor skewering an unprepared student in front of the entire class. Although the Socratic Method is in many ways a vestige of the way that law schools used to be run, most law students will tell you that it is still alive and well, especially in the first-year curriculum. The Socratic Method involves learning by questions and answers, rather than lecture. A professor will ask one (or sometimes many) student a series of questions to take the class through complicated material. The class learns not by hearing the professor recite a factual answer, but rather through the progression of the questions and responses. And when a professor decides to "hide the ball" for a while to make the students work, this simple progression can feel like one of those family road trips that never quite ends.

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Few aspects of law school are more feared, even by the smartest and most-prepared students, than the "cold call"—the moment when you get placed on the hot seat and are asked to answer a seemingly endless flow of questions. Learning how to do your reading and "manage" yourself in class can help ease the stress associated with the inevitable cold call.

After you feel that you have grasped the big idea of each major case, you should turn to the remainder of the assignment, which will attempt to challenge the legal principle just announced. The notes following a big case will contain brief summaries of additional cases (often called "squibs") and articles, along with numerous questions designed to make you think about the reading. This reading tends to be more time-consuming than reading the big cases because the casebook is trying to make you think about a multitude of hypothetical situations. Although you will never be able to remember even half of the squibbed cases and articles, the material after the big cases sometimes contains very important information. After all, a big case in Property may tell you that a landlord must keep a building "safe," but it is the subsequent cases that actually define the term "safe."

In an effort to prepare for class and do the reading carefully, new law students should attempt to "brief the major cases presented in the reading. Some students brief the cases throughout the One-L year; other students last only a few weeks. Briefing can be time-consuming, but learning to do it properly is a useful skill that can help both comprehension and anxiety about the cold call. You will have to decide for yourself whether briefing cases is a good use of your time. Below are a few tips to help you if you decide to brief cases, even if only for the first few weeks of class.

There is no single "correct" format for briefing a case, and different students will find their own templates. Generally, the idea is to reduce the case found in the book to a few short paragraphs that contain most of the relevant information. Even if you are not called on for a given case, you will find your briefs quite handy when you study for exams months later.

The easiest way to begin briefing is to type the case name at the top of a clean page along with the relevant court the case was decided in, the year of the case, and the casebook page on which the case starts—that will allow you to refer to the actual case should a professor call on you. You should then write a short paragraph detailing the important facts about the case for your own reference. It is important to remember that you will not be graded on your briefs and no one else need ever see them; they are simply handy reference tools to help jog your memory. So keep the factual summary short, and include just enough to remind you why the case is in court in the first place.

You should then write a one-sentence question about what you think is the major legal issue in the case (most cases have only one major issue). A good example from Brown v. Board of Education: Are "separate but equal" educational facilities inherently unequal? Next, devote a short paragraph to explain the court's holding and the rationale behind that holding. Remember that a professor is not looking for you to describe every facet of the court's opinion and essentially reread the decision to the class. Rather, the professor wants to hear what happened in a few short sentences. If the case has any dissents or concurrences, you should devote a sentence or two to each opinion. The most important aspect of these summaries is noting why the individual judge agreed or disagreed with the majority. If the opinion has been included in your casebook, it's likely that your professor will want to ask you which judge made the better argument and why. If you can figure out the general rule or big idea for a particular case, it is often helpful to jot that down as well, either at the top of the case brief or the bottom.

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Case briefs range from 10 lines to more than a page. Keep in mind that the shorter your briefs, the more likely you are to continue doing them throughout the semester. Because making detailed briefs can be so time-consuming, many students give up on the practice altogether after only days or weeks in law school. Rather than setting an unrealistic goal of drafting a substantial brief for each case, you should consider jotting down short briefs after each assignment. At the end of the semester, it is far better to have briefed every case concisely than to have briefed a handful of cases with extraordinary specificity.

Below we have included a sample brief for Pierson v. Post, one of the most famous cases in property law. Again, the following brief is not the one and only "correct" brief, just one of many styles. Find your own briefing style, one that you can do quickly and one that helps you best prepare for classes and exams.

The Socratic Method is a notoriously nerve-wracking experience, but the practice of "ruthlessly interrogating randomly chosen students may be falling into disfavor. Those professors who still use it have significantly lightened up on the severity of the questioning; one of my professors referred to himself at the beginning of the year as a "puppy dog." Sometimes even puppies can bite, however, and when this happens, one's classmates can come to the rescue.

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