PROFESSOR MICHAEL HOR (1): WHAT MAKES GOOD LEGAL WRITING?

What makes good legal writing in English in academic settings?

I think there are two aspects to it. The first is just English. I think good legal English is also good English, so you need good English to start off with, but that's not all. There's the second component because people who are good in English are not necessarily good in legal English and I think that's what law schools try to do. They try to teach and instruct students how to shape the language in the form of legal argument because legal argument is not like any other argument. There are certain ground rules. There are certain modalities here. For example, legal arguments have to do with statutes, cases, and a certain way of dealing with them, for example, whether a case applies or does not apply. There is quite a bit of technicality involved in that, so I think good legal writing is a marriage between good English on one hand and good legal English on the other hand.

A good piece of writing, of legal writing, is one which an ordinary untrained person who's proficient in English will recognize to be good use of the language and which a lawyer will also recognize to be an effective legal argument.

I think if you're writing as an advocate, then you are shaping the case in favour of one party or the other. If you are writing as a judge, you are trying to be objective and you're evaluating each position objectively. If you're writing as an academic, then you are going slightly above that. You are also being objective, but you are going beyond that to ask questions not only of what the law is and how it is applied, but also what it should be and how it should develop in the future.

What makes a good legal essay?

Well, I think in terms of a maybe passable answer, a B answer, an A answer, so I think a passable answer is one which has taken on board all the essential material with an acceptable understanding of it and expressed it in an acceptable way. I think going a little higher, then I'll be looking for a certain treatment of the material, a certain personal or individual input into what they have read, something which they have thought about based on the material rather than what the material itself is, so kind of a value-added opinion. And of course, the very best examples are students who

are able to do it very well, who are able to absorb all this while able to express a personal opinion about it, and they are able to express themselves in a very concise and clear way without or with a minimum of jargon.

What makes a good problem question answer?

Problem questions, to me, are more mathematical, more technical, more mathematical. If you hit the issue, you manage to identify the principal sources of law, whether it's a case or a statute or both, which apply to that issue. If you are able to offer a certain view what the law is and apply it, then to me, that achieves what the problem question asks for. Problem questions very seldom have a sort of law reform or what the law should be kind of the dimension, which is why I feel that in academic terms, it is not quite as good as an essay in assessment.

What advice do you have for students who are learning legal writing in English?

How do you go about doing that? I think there is no easy way. There's none. You just have to immerse yourself in it, so you just have to keep writing. You need good feedback on what you've written. You need to rewrite, maybe do it many, many times. Like anything else, if you practise doing it more often, you will improve.

I remember being a law student and when I was first presented with a nineteenth-century English case, it was like reading a very obscure form of Shakespeare and it was really difficult. It took like maybe an hour to do a page or something like that, but you just have to plough through it. You just have to keep on at it. And again, if you do it again and again, it will get easier and easier. And after a while, you will get the hang of the way in which judges write and you'll recognize which parts of the judgment are more important or less important.

in Hong Kong
LEGAL ENGLISH