Book Review. Summary of American Law by George L. Clark

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Let me add here that I think no one of us could do this in the way he expected. But we tried to look intelligent and responsive through all these other references in foreign languages until the particular reference to Portuguese, when he added, 'For those of you who may not read Portuguese, there is an excellent summary in Italian.' This was the coup de grace for two hopeful candidates... They never survived this reference to Italian as against Portuguese. This one week constituted the whole course for them and they were never seen again in Cambridge.

Professor Sayre spent many years in accumulating the material for this biography. His research took him to many different parts of the country; he tramped over the trails Pound in his botanical field trips had taken; he interviewed and wrote many of Pound's friends and relatives. Among his objectives was to portray the flesh-and-blood man behind Pound's writings and to place Pound's thoughts in sequence with other thinking and events around him so that his works might be better interpreted. In this the author has succeeded in a volume worthy of the one of whom he writes and upon whom he so appropriately bestows the title "world jurisconsult."

Emil G. Trott


For all but a few students who get "fired-up" about the law (and are likely to become professors themselves) there is an eternal conflict between students who desire to gain admission to the bar with a minimum of mental fatigue and the professors who think hard work is necessary to an understanding of legal processes. Too frequently, canned briefs, summaries, old exam questions, hornbooks, and quizzers are the weapons which students bring to the fray. Too little and too late! The discrepancies in materiel tilt the battle and the students lose—or at least most of them.

Thus, it is natural for a professor to be less than enthusiastic when another summary arrives; whereas, the law students will no doubt search it out with the hope that it will be the "secret weapon" of success. This particular Summary offers the student homeopathic doses of 31 fields of law in 691 pages. It is similar to most of the elementary law books already published. Its distinctive feature is the elimination of all case citations, with footnote references limited to American Jurisprudence, A.L.R., and some legal periodicals.

* Member of the Iowa Bar.
† Professor of Law, University of Kansas City.
1 Oh how I remember what O. K. Patton did to me!
2 See supra note 1.
3 But not as good as Bowman, Handbook of Elementary Law (1929).
Perhaps my feelings are biased by professorship, but it seems to me that for class recitation or for exam writing this volume is of limited usefulness. It is axiomatic that neither law students, nor professors, nor attorneys, nor judges can know "all the law." But this does not necessarily exclude as impractical a general awareness of a majority of the fields in which legal problems arise. Stimulating as the case method is as a teaching device, much of the informational content of the curriculum may be imparted more efficiently by other means. Indeed, supplementation of the case method already has received serious consideration upon at least three levels:

1. The acquisition of professional skills other than the distinguishing of cases and the rationalizing of precedents.
2. The imparting of descriptive information about fields of law without the use of the case method.
3. The avowed consideration of "policy" in the settlement of social conflict through legal processes.

The *Summary of American Law* considers neither the first nor third of these goals. But these, perhaps, are issues for the entire profession and not for Mr. Clark who has by his preface limited himself to a summary. The issue is then closed, why a summary for law students? The answer may be threefold: (1) that a law student needs a summary to assist in organizing a field which the analytical-case method has so

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4 "Suppose D," says Perk. Imagine answering, "Murder is homicide with malice aforethought. The phrase malice aforethought is a technical one and its meaning is determined by the decided cases." CLARK, p. 120.

5 Would you be on Bordie's team the second semester if you wrote, "An estate in fee simple was created at common law by a conveyance 'to A and his heirs,' whereas a conveyance merely 'to A' gave A only a life estate?" CLARK, p. 170.

6 But general awareness does not answer specific questions. It wouldn't have helped in Practice Court when Wayne Cook asked me to give the Interpreter's Oath. I still wonder how he thought up that one.

7 See Dean Pound's introduction, p. v: "What can be taught most effectively and what, as things are, it is most profitable to have taught is the technique of the common-law lawyer."


10 Llewellyn, supra note 8.

pulled apart as to destroy all appearances of orderliness or consistency,\(^2\) that he needs a summary of courses it is impossible to take in an overcrowded curriculum, \(^3\) that he needs it, from his viewpoint, for the practical requirements of passing courses and the bar exams.\(^4\)

Judged by these objectives the question is re-formed—does this book or books like it provide good weapons for the law student? It is my judgment that they do not. This volume does not add new skills to the techniques that students are supposed to acquire but instead subtly re-emphasizes that all the law is to be found in the decisions or at least in the encyclopedic compendia of them.

Others have sought to aid law students by writing books about how to study law.\(^5\) Generally, these books have described the judicial system, procedure, the lawyer’s function, and methods of studying law. Whether or not these books have achieved their goal, they have the distinct merit of not providing the student with shorthand answers to legal questions.

Another group of books seeks to assist law students in writing examinations.\(^6\) Although I doubt that there ever will be an acceptable substitute for preparation and thoughtful study,\(^7\) Smith at least, through the comparison of good and poor answers, illustrates the subtleties of distinction, the dangers of generalization, the advantages of factual analysis, and the comparison and application of conflicting rules.\(^8\)

If there is real need for the summary style of legal writing it comes not at the level of general coverage. Such books as Clark’s do not convey enough information and, indeed, it is impossible for them to do so. From the very necessity of completeness, the law in such volumes gets compressed into meaningless capsules. In our glorification of Blackstone it is too frequently overlooked that needing to deal with but one jurisdiction he could and did include both statutes and decisions so that the result was both readable and practicable. Our compendia, seeking to straddle a minimum of 50 jurisdictions, stick largely to the case law and present majority and minority rules where, frequently, differing statutory authority is a sufficient explanation or eliminates the need for judicial decision altogether.

A much more practical approach to the problem of legal information beyond the course level would be the use of pamphlets or summary

\(^{12}\) Is Williston still ‘‘missing’’ from the library?

\(^{13}\) Or if you didn’t have a ‘‘B’’ average and couldn’t get into Future Interests.

\(^{14}\) If you take the Iowa bar, better read Iowa Code §§ 1.1 to 795.5, or at least it used to be a good idea.

\(^{15}\) Morgan, Introduction to the Study of Law (1926).

\(^{16}\) Smith, How to Answer Law Examinations (1946); Ballantine, Problems in Law (2d ed. 1937).

\(^{17}\) If there is, Walt Hanson and I wasted a lot of time in reviewing, as well as at Whet’s and the Iowa Supply.

\(^{18}\) Smith, op. cit. supra note 16.
articles\textsuperscript{10} restricted to narrow problems in particular jurisdictions. Mechanics liens, planning and zoning legislation, farm taxation, and industrial insurance—to mention but a few—seldom get sufficient classroom treatment to be useful to the law student or the neophyte lawyer. The summary books don’t fit his needs. But an unpretentious article of thirty or forty pages limited to a single jurisdiction will give him the basic outline for understanding and future study.

By no stretch of the imagination can we provide a student with enough information to give background for all the questions which will arise in his first year of practice. If that were all that there is to law it would not be the fascinating, tantalizing, uncertain practice that it is. And it would be dull. Thus, law students should understand that summaries will never be weapons but will always be crutches—they will not turn the tide in the Battle of the Bluebooks nor before the Bar nor on the Bench. \textit{Frank E. Horack, Jr.}\textsuperscript{10}

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\textit{Llewellyn, supra note 8.}\textsuperscript{10}
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