The Importance of Law Student’s Outline for Each Course

The outline the student prepares for each course is the most important key to law school success. An outline is the distillation of the student's case briefs, casebook notes, and class notes. It would seem that the preparation of such an outline should be a simple matter; this would perhaps be so if the professor presented his material with crystal clarity and if the casebook were laid out in an easily digestible form. More often than not, however, in class and in preparing casebooks, professors intentionally or unintentionally play a game which students have called, in their more charitable moments, “hide the ball.” Often it is not the professor's purpose to set out the material so plainly that all the student need do is memorize it and repeat it on his exam to earn a good grade. Instead, it is the student's responsibility to dig out the law and the rationale behind it from an amorphous mass of material. It is the student's job to separate the wheat of relevance from the classroom chaff, to spot the issues that are being raised, to identify the solutions that are suggested, and to understand what theories and policies support the solutions. In the same respect, casebook editors do not usually follow a case with a statement on the holding of the case or the law it settled. It is the student's business to pry these crystals from the matrix of the cases and to comprehend the reasoning by which a court arrived at a decision.

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To a certain extent, this “hide the ball” teaching method is a very accurate reflection of the law itself. Always in a state of flux and change, the law does not offer as much certainty and predictability as the layman might expect. The practice of law is not a process of looking up hard-and-fast rules to solve any given problem. A law professor at Indiana University annually offers a twenty-dollar prize to the student who can present him with a “simple legal problem.” Many have confidently come up with seemingly straightforward problems, such as "when is a person legally dead" or "when has a will be attested to by three witnesses," only to have the professor draw out all the ambiguities inherent in the problems that have led to a confused and conflicting mass of litigation. The study of law can therefore be a fluid enterprise with the student himself the only source of whatever certainty or conclusions might be drawn from the mass of material presented by his professor and casebook. He must seek and find the ball in the professor's game of "hide the ball," whether the ball be considered the rules of law, the black-letter law, the important points contained in a block of material, or the conclusions to be drawn from the material.

Sometimes this game can be carried to such an extent- either because of the professor's conscious effort to hide the ball or because of his inability to communicate with clarity- that the student is not only unaware of where the ball is hidden; he is not even aware of what kind of ball he is looking for. Wrote the eminent Professor Grant Gilmore in a review discussing the teaching of law:

We shy off from organizing our material into a coherent whole on the excuse that to do so would be spoon-feeding. At best, we give our students a series of unrelated flashes of brilliance; at worst, nothing.

The student's development of an outline is therefore not merely an act of summarizing or synthesizing. It is a process of creative intelligence by which he must force the material of a course into a coherent, organized, and meaningful form.

The greater the care he has expended on his briefs and class notes, the easier outlining will be. And the more regularly he keeps his outline current, the less of a burden it will be. If the student lets several weeks elapse before organizing the material into an outline, he not only will be faced with the unpleasant prospect of devoting a large block of time to the intense and draining task of mastering a major section of material, but he also will have lost some of the value of each succeeding class by not having the material that went before in proper perspective. It is therefore recommended that the student prepare a running outline, kept up-to-date after every class or at the very least on a week-to-week basis. An outline for each course should be begun the first week of the first semester.

Every effort should be made to reduce all the learning from one class period's assignment to a single side of a single page of an outline. This will not always be possible, but the attempt should be made to boil away all but the essential. There will at first be considerable temptation to include too much in the outline for fear of passing over important points. Yet much of the specific knowledge the student must possess for the class meeting dealing with the assignment can safely be forgotten for the exam. There is a continual risk in studying law that the student will try to absorb too much material-that in working with a course he will try to learn everything, with the result that he will be unable to become the master of any of it. A
completed outline for a course might be from fifty to one hundred pages long. Anything more could prove to be too unwieldy a mass of information when one studies for the exam.

Unless the professor has made a special point of emphasizing that a decision was handed down by a particular court and is unique for this reason, or that it is important because a certain judge espoused a novel theory or philosophy, or that the fact that an opinion was handed down in a given year was critical, the student need not record such factual information in his outline and need not remember it for an exam. Nor need he know or record the facts of the cases or the court's complete reasoning process. Furthermore, there are very few cases whose names or specific holdings must be remembered for an exam. It will be obvious from the professor's presentation or the casebook material which few cases are classic or major cases and therefore worth knowing for the semester. In these instances, the student will record the name of the case and its narrow holding in the outline. Several sentences discussing the reasoning of the court, or the reach of importance of the case, might also be included, but it would be a rare instance when the student had to consume more than a brief paragraph to capture in his outline the essence of a major case.

In most other instances, merely the principles that the cases decided need be written out, if indeed they further the understanding of an area of law. From his class notes or casebook notes or underlinings, the student might include a particularly apt hypothetical or example that captures and elucidates the complexities of a subject, and of course the principles or black-letter law which the professor or casebook isolated should also be included. A student's outline will obviously be a very personal record of his work during a semester and of his understanding of a subject, but in general the outline should be neither so brief as to be enigmatic nor so lengthy as to merely repeat the information contained in the student's briefs and working notes. Each section of the outline should be clear enough to trigger the general ramifications of an area of law, but need not and probably should not set out every subtlety and complexity of each assignment.

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In looking back on a block of material, determining what was most important in that material and extracting those nuggets and setting them out in the outline occurs much of the intellectual process necessary to learn a body of law. At this point, with the greatest knowledge of, and clearest perspective on, an assignment, the student must win his professor's game of "hide the ball." Victory will be assured if the student has a sufficient grasp of the material in an assignment to set it out in a flexible outline form in his outline, with each new assignment classified under an appropriate heading and the material contained by that heading broken down into more specific classifications. For example, in a criminal law course an area of study will be homicide, which can be further broken into murder and manslaughter, with the murder section being divided into such classifications as malice aforethought, the felony murder rule, murder in the first degree, and murder in the second degree, and with the manslaughter section divided into such categories as voluntary manslaughter and involuntary manslaughter. The essential learning the student acquired about homicide can then be neatly filed away under its appropriate heading.

If it is not clear from the professor or the casebook exactly what type of classification an assignment's material should receive, some helpful ideas will be readily available by studying the casebook's table of contents or by turning to a treatise on the subject. Material should never just be dumped into an outline; to be a valuable study aid, it must be broken down into as specific classifications as is possible.

While he is making an outline and later as he studies it, the student will clearly see how what might have seemed like multiple, isolated, watertight compartments that made up a course actually mesh and work together quite logically. The student ought to return to his outline regularly and reread it from page one. While there is no need to try to memorize it, the mere reading of the outline on a regular basis will develop in the student a deeper appreciation of the material and a keener familiarity with it. This will help put each succeeding case and class in context and will provide an opportunity for the student to reexamine his work to see if he has properly classified, or most appropriately classified, the earlier material. Revisions or refinements can continually be made when, for instance, the student sees that the material comprising several assignments could all be placed under a broader heading or that a section of material more clearly fell under a different classification.

Periodically, perhaps at two-week intervals, a running table of contents should be prepared for the outline. From this less immediate vantage point, the student will more readily perceive the interrelationships of the material. Including a simple table of contents with the outline will provide a key to the outline and the areas covered by the course and will be a convenient means of reviewing an entire course for the exam after the information in the outline has been learned.

In that the outline is the final distillation of what the student has judged to be of importance in a course, in that it will be the primary, even the exclusive, source of study for the exam in the course, the student will
want to make it not only as substantively clear as is possible, but also as visually neat as possible. To this
end, he should consider typing it, using good quality paper, and keeping it free of a jumble of arrows and
stars and inserts. The outline, if well prepared, can also be the single most important source a student will
study for his bar exam, and during his career can be a handy source for a quick overview of the law of a
particular subject. The outline will in effect contain everything the student feels is worthy of taking away
from a course to be made a part of his legal apparatus, and therefore should be prepared and treated as a
permanent document.

Unless the student prepares his own outline, his exposure to the law of each course will be limited to his
preparation for class, the class period, and his review at the end of the semester for the exams. With this
limited exposure, it is usually not until the student begins to study for his exams that the scope of an area of
law becomes obvious. As a result, the student is faced with a body of law that in a few days must be made
comprehensible and then absorbed, a burdensome, and often futile, endeavor. Although the preparation
of a valuable outline is an arduous process, all of the time and effort a student lavishes on it will pay a high
return in mastery of a legal subject, and in making the exam for a course seem more like a natural and
obvious conclusion of the semester than an insurmountable obstacle to fling oneself against blindly and in
desperation.

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