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Cases on Criminal Law

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which is so clearly portrayed. The author and those who have made possible the completion of this laborious task deserve the highest commendation of the American public.

H. DOUGLAS SINGER*

Cases on Criminal Law. 3d edition. By William E. Mikell. St. Paul: West Publishing Co., 1933. Pp. 775. \$5.00.

Students of criminal law are too well acquainted with Dean Mikell's casebook to make any general description or comment necessary. For this reason the present review will be confined, to a large extent, to a comparison of the present edition with its immediate predecessor.

Dean Mikell's book has long stood for the orthodox arrangement of the case material. So far as possible it was previously grouped under general headings illustrative of the corresponding general principles supposed to run alike through all the specific crimes. Then followed a number of chapters devoted to specific offenses, to bring out the individual problems applicable only to the offense then under examination. Yet in actual fact there are very few such general principles everywhere equally and alike true, regardless of the nature of the offense raising the problem. Instead any such general treatment is almost certain to run against the inquiry, In what offense are you trying to apply the principle? And its meaning varies accordingly. Mr. Mikell has now yielded some slight ground to this viewpoint. Thus the subsection on consent has been broken up and its thirteen cases distributed among the particular offenses to which they belong. Likewise the section on negligence disappears and the cases are moved over to the manslaughter section, where they clearly belong, as the conclusions worked out from them are obviously valid only for that crime and have no general bearing, as, e.g., for battery or for rape. Besides the above, a number of chapters on general topics are lifted bodily from the beginning of the casebook and are placed at its end, so as to follow, instead of precede, the chapters on specific offenses.¹ Such shifting of entire chapters seems, however, of less moment, as it will be the rare teacher who will not in any event rearrange the order of topics to suit himself. Beyond this there are no structural changes of any significance.²

With so few real changes a descriptive review then necessarily becomes a chronicle of more or less subordinate changes. About thirty-six cases have been dropped and about thirty new ones added—almost always to the definite improvement of the teaching material.³ The footnotes accompanying these new cases are in the main new. Besides that there are two new footnotes in the book, and forty-six lines (approximately)

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¹ So chapter II (except sections 1 and 2 (I)) becomes chapter 19; chapter IV becomes chapter 18; chapter V, section 2 (II) becomes chapter 16; chapter V, section 2 (III) becomes chapter 17; chapter V, section 3, becomes chapter 20; chapter VI becomes chapter 21.

² Five cases in chapter III are moved into the chapters dealing with their respective particular offenses. Some of the section headings in this chapter are, wisely, suppressed. Chapters VIII and IX on False Imprisonment and Kidnaping, and Abortion, respectively, are gone. As these chapters had a total of only four pages, the change is not an important one. It may be queried, however, whether kidnaping does not call for increased, rather than lessened, space.

³ Many will probably regret the disappearance of *Reg. v. Pembleton*, which gave a fine illustration of the complete indefiniteness of meaning of the word "maliciously."

have been added to old notes, and about seven lines removed. Numerous sections, and some whole chapters even, appear without the slightest change. Sometimes this is unfortunate. Thus the nearly obsolete subject of larceny by breaking bulk surely calls for a more recent case than 1835 as the latest word. Insanity gets but one change, viz., the addition of five lines to a footnote; many will feel this to be far from adequate growth. Very welcome is the editor's decision to include citations to law review articles. It is a pity, however, that he has carried it out to so slight a degree, as such references appear in only ten notes and are to only twenty-six articles.⁴ The book maintains the usual high standards of its publishers in the matter of freedom from errors of composition.⁵

By way of summing up, the new edition will undoubtedly hold fast the many friends gained by the two preceding editions, while, on the other hand, those who found these not congenial for one reason or another will probably react in the same way to the instant edition. Considering how slight the changes were that Dean Mikell found it desirable to make there is room for some question as to the wisdom or need of this new edition at all.

E. W. PUTTKAMMER*

Cases and Readings on Property. Volume II. By Everett Fraser. Chicago: The Foundation Press, Inc., 1933. Pp. 687.

The present volume deals with the usual subject matter of personal property together with a few topics touching real property such as Adverse Possession, Prescription, Emblements, Waste, Fixtures and "Some Legal Relations of a Landowner in Respect to Land, Air, and Water." The inclusion of these topics in real property logically brings together a treatment of the law of possession of both real and personal property with seemingly satisfactory results. Similarities and differences in the two branches of the property law can be pointed out and time saved by treating possession of both types of property as a whole.

In the preface Dean Fraser states that "possession is the dominant idea of the first six chapters." It may be queried whether Dean Fraser has not allowed that one concept to dominate him and his selection of cases just a little too much. The reviewer would have preferred to see a case with a good plain discussion of the essential elements of a bailment for the opening case in the chapter on Bailments rather than one in which the discussion revolves about "possession" with little more than an inference that it is one of the elements of a bailment. Likewise, for the opening case in the chapter on Prescription, the writer would have preferred a case involving prescriptive rights in

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⁴ There are also two citations to books.

⁵ Such errors as there were in the second edition seem, however, to have survived without exception. *Regina v. W. D.* still appears as *Rex v. W. D.*, though the date, 1570, glares at one. The reference to suicide (p. 308) as an "occasion" (which it no doubt is) instead of an "occision" (which is what Lord Hale was talking about) remains. The same is true of an error on p. 681. And in the case on p. 343 there is still the rather serious failure to indicate that the "foregoing reasons" on account of which the case was reversed were reasons omitted from the casebook quotation, and were not connected with the lengthy jury charges given (which were approved, and which, in the casebook, appear as the only matters in review).