

Cases and Materials on Torts. By WILLIAM L. PROSSER AND YOUNG B. SMITH.
Brooklyn: The Foundation Press, Inc., 1962. Pp. lii, 1181. \$13.00.

The problems inherent in reviewing a casebook are increased when the review is of a later edition. This casebook is actually the third edition of Smith and Prosser's *Cases on Torts*, though with the intervening death of Dean Smith, the order of the names has been reversed. An attempt to describe the organization of the book does little more than to outline the detailed table of contents. Inspection of that table discloses that the Prosser casebook is organized on a doctrinal basis, like Seavey and Keeton¹ or Harper's edition of Bohlen,² rather than on a factual grouping, like Green et al.,³ or on a combination of the two like Gregory and Kalven⁴ or Shulman and James.⁵ For a law teacher who uses the doctrinal approach it provides an excellent teaching device. It differs from Seavey and Keeton somewhat in arrangement but most perceptibly in the notes. The Seavey notes consist of short abstracts of other cases to provide further basis for speculation and classroom discussion; the Prosser notes are more informational in character, and the teacher can use them for classroom discussion or leave them for students to absorb on their own, as he prefers or as he finds time.

Since the first edition of the casebook was published about ten years ago, Dean Prosser has published a new edition of his treatise and has been serving as the Reporter for the Second *Restatement of Torts*. This has meant that he has kept fully acquainted with the recent cases in the field, and he has used the acquaintance to good advantage in selecting suitable opinions. About one-fourth of the cases in this edition are new ones, the great majority of them having been decided since the appearance of the second edition. It goes without saying that they have been carefully chosen and in most instances are improvements over the old cases.

The general organization of the earlier editions has not been greatly changed. The chapter "Effect of Liability Insurance" has been expanded from nine pages to forty-eight. It now contains some very interesting tort material which will be quite tempting to a torts teacher despite his urgent need for more teaching hours. The chapter on landowner's liability has been brought from the latter part of the book into the vicinity of the other negligence materials and placed in a chapter entitled "Limitation of Duty," which also contains cases on duty to act, emotional disturbance and its consequences, and pre-natal injuries. The grouping and the location both seem to be good. Some-

¹ SEAVEY, KEETON & KEETON, *CASES AND MATERIALS ON TORTS* (1957), based on SEAVEY, KEETON & THURSTON, *CASES ON TORTS* (1950).

² BOHLEN, *CASES ON TORTS* (5th ed. 1953).

³ GREEN, MALONE, PEDRICK & RAHL, *CASES ON TORTS* (1957); GREEN, MALONE, PEDRICK AND RAHL, *CASES ON INJURIES TO RELATIONS* (1959).

⁴ GREGORY & KALVEN, *CASES ON TORTS* (1959).

⁵ SHULMAN & JAMES, *CASES ON TORTS* (2d ed. 1952).

what strangely, products liability is still left where it was, widely separated from the other negligence materials, in a chapter entitled "Tort and Contract." Of course the phenomenal contemporary growth of "implied warranty" liability in foodstuffs and other products affords some basis for treating these cases in a chapter on the relation of tort to contract. But the products cases could have been brought up with landowner cases to the duty chapter on the basis of the privity limitation. That "limitation" is no longer really effective, but neither are the "limitations" in some other sections of the chapter. Earlier editions of the casebook had no cases on the liability of an employer for acts of an independent contractor. Abbreviated materials have now been inserted in a new chapter entitled "Imputed Negligence" which also contains imputed contributory negligence.

There is some rearrangement of materials within certain chapters. In the chapter "Negligence," for example, both sections and cases within sections have been revised. The result, I think, is a definite improvement in teachability.⁶

The new edition is about 120 pages shorter than the previous one. This has been accomplished by cutting cases more sharply and providing more textual material. Thus, the chapter on conversion has now been made a section and its length has been cut in half by covering much of the material by means of text notes. The effort in the pruning process is to make it possible to cover more of the book in the limited time that is now given to torts.

If the proof of a casebook is in the using, I can testify from experience that the Prosser casebook is a good one, indeed an excellent one. Its arrangement, its cases, its notes and comments are stimulating and conducive to good classroom discussion. I think the new edition will prove even better.⁷

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⁶ One minor, additional change that I would suggest is to take *Pokora v. Wabash Ry. Co.*, 292 U.S. 98 (1934) from its place as the first case in "proof of negligence" and to place it just before the cases of "violation of statute." This would make it easier to get across the idea that the court is itself adopting the rule of law from the criminal statute rather than having it prescribed by the legislature. Cf. RESTATEMENT (SECOND), TORTS § 286 (Tent. Draft No. 4, 1959).

⁷ We torts teachers are blessed with a plethora of good casebooks. I wish that they cost less so that we could switch around from year to year and experiment with them, without having to put such a financial burden on our students.

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Family Environment and Delinquency. By SHELDON AND ELEANOR GLUECK.
Boston: Houghton Mifflin Co. 1962. Pp. xi, 328. \$6.50.

My eldest boy, aged thirteen, attracted by the title *Family Environment and Delinquency* and searching for an opportunity lightly to torment his father,