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Review of “Cases on Criminal Law. 2d. Ed.,” By William E. Mikell

Wendell J. Phillips

Washington University School of Law

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BOOK REVIEW

CASES ON CRIMINAL LAW. Second edition, by William E. Mikell, Professor of Law and Dean of the Law School of the University of Pennsylvania. American Case Book Series. West Publishing Company, St. Paul, Minn. 1925. XXIV and 799 pages.

"This collection of cases is intended for use as a text-book in studying the common-law principles of the criminal law. The development of the criminal law has been sporadic and unequal. Certain portions of it—statutes aside—have been molded by the courts in radical fashion to fit modern conditions. It is a far cry from the dictum of Lord Holt in 1702 that 'corporations are not indictable' to the present holdings of judges that corporations may be convicted of almost every crime in the calendar from manslaughter. On the other hand, in such fields as cheats, larceny, murder, and others, the decisions of the courts of the 1600's are in many cases still valid. In still other fields, notwithstanding Lord Coke's saying, 'The Knowne certaintie of the law is the saftie of all,' the criminal law is still most uncertain. Courts are not yet in agreement as to whether *lucri causa* is a necessary element in larceny, or whether it exists under a given state of facts; as to the true meaning of consent in rape and battery; or as to what constitutes such an everyday crime as assault.

"In the selection of the cases in this book the object has been to present the law as it is; to trace its growth to its present state; and to indicate, as far as possible by the most recent usable cases, its future development."

Thus the author of the above volume has outlined the object of his work and the scope of his new edition. Dean Mikell has met with much success in attaining his objectives in the present work. By a few changes in arrangement; the elimination of a section or two, the omission of certain cases contained in former volumes, which experience has shown were not particularly valuable in the development of the subject in the class room; and lastly by the addition of many recent cases, decided since 1908, the new edition has been improved greatly over Dean Mikell's first edition, itself a highly successful book.

In 1903, Dean Mikell published his first casebook on criminal law. This volume was followed in 1908 by a second work upon the same subject. The latter was the first edition of the present volume and was also the first of the present well-known American Case Book

Series. The present edition of *Cases on Criminal Law* contains 799 pages as compared to the 610 pages of the first edition. The new edition contains a total of 419 cases, sixty of which did not appear in either the 1903 or 1908 casebooks. Some few cases, however, which did appear in the former volumes have been omitted from the present one. English cases predominate in the present edition, there being a total of 228 as opposed to the 191 American cases. There are 53 cases which were decided during the 18th century; 260 decisions of courts of the 19th century, and 66 cases bearing dates since the year 1900. Thus it is seen that the author selected modern cases as far as it was possible for him to do so and still give the student the desired historical background so necessary for a correct understanding of underlying legal principles and the proper development of the same.

The arrangement of cases in the edition of 1908 followed greatly the same general arrangement of the edition of 1903. In the present edition, however, some changes in both arrangement and in the titles of some chapters and sections have been made. The section upon "constructive intent" and the title "negligence as supplying intent" are among those which are omitted, because the author believes, and we think rightfully, that such classifications are unnecessary and misleading. Most of the cases formerly appearing under those titles have been retained and are placed elsewhere in the book, under different headings. For similar reasons certain other sections appearing in the earlier volumes have been consolidated.

The present volume reflects in no small degree the newest developments in criminal law, without losing any of the historical perspective of the development of the Law on Crimes. The writer is of the opinion that the new edition will meet with merited success in the class room.

WENDELL J. PHILLIPS, '27.

CASES ON TRUSTS. May, 1925. By George P. Costigan, Jr., Professor of Law, University of California. (West Publishing Company.)

Mr. Costigan, in compiling this case book, has begun with several short quotations from histories and law treatises, by means of which he gives the student an admirable short outline covering the development of uses and trusts and the distinctions between the two. The cases in the first chapter of the book are chosen to illustrate the dis-