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## Cases And Materials On Criminal Law And Procedure. By Rollin M. Perkins.

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as an illustration for the use of the comparative method in important fields. It was this comparative-law feature which induced Dr. Karl Wahle, President of the Austrian Supreme Court, who reviewed it in an Austrian legal periodical, to emphasize that, with respect to its comparative-law part, it has no rival among the European literature on labor law.

There cannot be the slightest doubt that Professor Schlesinger provides teachers and students of comparative law with a book which deserves highest commendation. The first edition was highly appraised. The second edition is even an improvement on the first one. Finally, one more among the numerous outstanding features of the book must be mentioned because it distinguishes it from other legal books published in this country: its index is superb.

ARTHUR LENHOFF  
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CASES AND MATERIALS ON CRIMINAL LAW AND PROCEDURE. By Rollin M. Perkins. New York: The Foundation Press, Inc., 1959. Pp. xxxv, 851.

I suppose the reason most casebooks are "born" is that the author believes that he can do better than someone else, or more likely that the casebooks available in a specific course are not adequate for the method of teaching that he wants to employ. With this in mind, the following review has been written.

The book's main advantage is that it is readily suitable to almost every criminal law course taught in the law schools of the United States. It has some 753 pages of cases and material (including a 30-page appendix) treating the substantive criminal law, and 233 pages dealing with the procedural and enforcement aspects of the criminal law. Thus the usual three hour course in the substantive law can be carved from the first part, and a two hour Criminal Procedure course can be easily taught from the second part of the book. If one teaches in a school which would allow a six hour course in Criminal Law and Procedure, there is sufficient material to accommodate such a fortunate individual.

The author starts out with a chapter on Definitions and Classifications which is not found in many casebooks and certainly is an apt beginning for the freshman law student. It would seem, however, that the introductory chapter could go farther with historical development and purposes of criminal law.

One of the outstanding features of this book is the excellent treatment of "corpus delicti," which helps the student not only in criminal homicide, but all crimes. This, together with Professor Perkins' "man-endangering-state-of-

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mind-" concept in the interpretation of malice, gives an excellent beginning to the chapters on specific offenses.

The author practically ignores the crimes of rape and robbery as such. For example, Mr. Perkins devotes only 23 lines of text material to rape. Although crimes not covered as specific offenses are included indirectly in other portions of the book dealing with the general principles, such coverage is inadequate.

The crimes of burglary and assault and battery are adequately covered. As the author suggests, the case material on these specific offenses can be eliminated and by using the excellent text material in the appendix several hours can be saved which can be more profitably used on other matters. The crime of larceny receives a very adequate treatment, and as must have been the author's belief, this specific offense, together with criminal homicide can describe many elements of the criminal law more profusely than a sketchy handling of several crimes.

Mr. Perkins states in the preface of his book that he is attempting to come between the two extremes of covering the entire field of criminal law; (1) prorating time to each topic according to its relative importance, and (2) covering only a fraction of the field of criminal law but emphasizing the method of study and the "intellectual experience." Certainly he succeeds in his purpose. He does cover certain crimes thoroughly, leaving others for outside reading or lecture. His cases are provocative and tend to give "openings" for discussion of the purpose of criminal law and criminology in general.

One might differ in his ideas of how to present criminal law to the law student, especially thinking what is important or not important, but there is nothing stopping one from using this casebook in any way he might think best. If there is a difference of opinion, it stems from what I hope might be considered that "reasonable minds will differ" theory. Criticism is difficult of a book which accomplishes its purpose without placing your opinion against that of the author. Should anyone want to argue the varying importance of criminal law principles with the author, he could be met with reasons which are aptly set out in his casebook. Mr. Perkins does not and rightly should not want a stagnant criminal law, but one which moves along with the times. He uses cases which he believes will point the way to a more enlightened treatment of this important field of the law.

This casebook is valuable in that its "companion," Perkins on Criminal Law,<sup>1</sup> can be used by the law student very profitably to clear up any of the inconsistencies which may seem to develop in the case method of teaching. If the student does not want to go outside of the book, the appendix covers the Law of Homicide, Burglary and Assault and Battery in a manner which would require no outside reading. The footnotes to the cases also give the enterprising

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1. Foundation Press, 1957.

student a way to other cases which further explain the divergent views on particular subjects.

Ending this review on the same rapport as it was started, the student and the teacher can find more than enough material to discuss. If the student has done the job which he is required to do, and the teacher supplements the case-book with material from the court's decisions in the state where the law school is located, or which his particular idiosyncracies "drive" him to require of his students, no one should be amiss.

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DELAY IN THE COURT. By Hans Zeisel, Harry Kalven, Jr., and Bernard Buckholz. Boston: Little, Brown & Co., 1959. Pp. 313.

Court congestion has long been a problem of the bench and bar. More recently it frequently has been brought to the attention of the reading public.<sup>1</sup> In this age of studies it was inevitable that this delay in the clearing of court calendars would be the subject of investigation. This book is the report of such a study made at the University of Chicago Law School under a grant of the Ford Foundation.

The problem is this: how much harm do litigants suffer because it is impossible to have a prompt civil jury trial. This survey attempts to measure the extent of the delay and to evaluate the results of several suggested remedies to the problem. This study is based on a thorough investigation of one court, i.e., the Supreme Court of New York County in Manhattan.

The problem of delay in court calendars is not a new one. The New York Court has inherited a backlog of cases which has existed for over a half century. At the present time this court concentrates all of its delay on the personal injury cases. The average time for such a case to come to trial is 39 months. All of its other calendars, personal injury non-jury, general jury, general non-jury, are up-to-date. The net effect is obvious. Many litigants in negligence actions seek settlement out of court or a bench trial.

This delay is more apparent than real. It goes without saying no personal injury case is ready for immediate trial. In answer to a questionnaire submitted to members of the Cleveland Bar it was ascertained that 10 months for tort cases would be the average length of time after filing that a case should come to trial.<sup>2</sup> The court should not be held responsible for the delay which is necessary to prepare a case. Furthermore, any statistics of delay do not take into consideration requests for continuances and voluntary adjournments.

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1. See bibliography pp. 297-303.

2. P. 52.