FRANK MILLER'S LEGAL SCHOLARSHIP

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It is difficult to capture the essence of Frank Miller's legal scholarship in just a few pages. Over the years, he has written on a wide variety of subjects. All his publications exhibit thorough research, careful analysis, and precise expression. Both of us are former colleagues of Frank's. We are also collaborators with him, and we are his friends. Therefore, we thought it best to report what others have said about and done with Frank's writings rather than simply to express our own high regard for his work.

Frank's most recent scholarly projects have involved criminal justice administration and related matters. His success in this area, however, may unfortunately obscure his earlier work in entirely unrelated fields, which continues to influence those areas.

Frank's first major scholarly work was in the area of bulk sales and grew out of his work on his S.J.D. thesis. He was employed by the American Law Institute to do background research for Professor Charles Bunn of the University of Wisconsin law school. Professor Bunn was the Reporter for the bulk sales article of the developing Uniform Commercial Code (UCC).

While Frank never expected to become rich from legal scholarship, he learned at the onset of his career that scholarship can sometimes develop from work for which the scholar receives respectable compensation.

The UCC article was approved in 1951. Frank's work on the Code provisions gave him considerable raw material in an area in which the Code's enactment generated considerable interest. He developed a number of scholarly products from this work, including a 1951 article in *Law and Contemporary Problems*,[1] a series of three closely-related articles in the 1954 *Law Quarterly*,[2] and—for practitioners—a 1955 piece in

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1. Miller, *The Effect of the Bulk Sales Article on Existing Commercial Practices*, 16 LAW & CONTEMP. PROBS. 267 (1951).

2. Miller, *Bulk Sales Laws: Businesses Included*, 1954 WASH. U.L.Q. 1; Miller, *Bulk Sales Laws: Property Included*, 1954 WASH. U.L.Q. 132; Miller, *Bulk Sales Laws: Meaning to be Attached to the Quantitative and Qualitative Requirements Phrases of the Statutes*, 1954 WASH. U.L.Q. 283 [hereinafter Miller, *Bulk Sales Law: Requirements*].

the *Practical Lawyer*.[3]

His empirical bent was obvious from the start. The *Law and Contemporary Problems* article included both an examination of statutory provisions governing bulk sales at that time and also the results of a survey of credit organizations. The survey investigated both actual practice under the existing statutes[4] and the changes that might be expected in practice upon enactment of the bulk sales article of the recently approved Uniform Commercial Code.[5]

Although Frank did not continue to pursue this early interest in bulk sales law and practice, his work in the area has been widely used in academic discussions of bulk sales issues[6] and remains an important part of this literature.[7]

The continuing importance of Frank's work in this area was confirmed in 1989, when Professor Alces published his treatise, *The Law of Fraudulent Transactions*.[8] In his chapter on bulk transfers, Professor Alces made extensive use of Frank's *Law Quarterly* articles in his discussion of pre-UCC bulk sales law.[9] More specifically, Professor Alces relied explicitly upon Frank's classification of businesses for purposes of describing the likelihood that courts would find businesses covered by pre-UCC

3. Miller, *How to Conduct a Bulk Sale*, 1 PRAC. LAW. 78 (1955).

4. Miller, *The Effect of the Bulk Sales Article on Existing Commercial Practices*, 16 LAW & CONTEM. PROBS. 267, 268-81 (1951).

5. *Id.* at 281-83.

6. Billig, *Article 6—Order Out of Chaos; A Bulk Transfers Article Emerges*, 1952 WIS. L. REV. 312, 317 (referring to the *Law and Contemporary Problems* article as an "excellent article"); Kimball, *Article 6: Bulk Transfers*, 21 MONT. L. REV. 51, 54 (1956) (relying on *Law and Contemporary Problems* article); Lakin, *Bulk Transfers: What Hath the Uniform Commercial Code Wrought?* 35 MD. L. REV. 197, 208 n.69 (1975) (citing "comprehensive discussion" in Miller, *Bulk Sales Law: Requirements*, *supra* note 2, at 298-312); Weintraub & Levin, *Bulk Sales Law and Adequate Protection of Creditors*, 65 HARV. L. REV. 418, 424 n.27, 429 n.48, 431 n.59 (1952) (relying on *Law and Contemporary Problems* article).

7. A recent and comprehensive examination of Article 6, Brines, *Article Six Bulk Transfers: Thirty Years of Confusion*, 86 W. VA. L. REV. 29 (1983), uses Frank's *Law and Contemporary Problems* article, *id.* at 39 n.53, as well as two of his 1954 *Law Quarterly* pieces, *id.* at 36 n.36, 42 n.70. Brines notes continuing dispute concerning the coverage of Article 6 arising from the term "in bulk," which Frank identified in his 1954 work. *Id.* at 38 (discussing Miller, *Bulk Sales Law: Requirements*, *supra* note 2, at 324). *See also*, Harris, *The Interaction of Articles 6 and 9 of the Uniform Commercial Code: A Study in Conveyancing, Priorities and Code Interpretation*, 39 VAND. L. REV. 179, 184 n.17, 190 n.47, 214 n.152 (1986).

8. P. ALCES, THE LAW OF FRAUDULENT TRANSACTIONS (1989).

9. *Id.* at 4-5 to 4-17. *See also id.* at 4-22 n.104 (relying upon Miller, *Bulk Sales Law: Property Included*, 1954 WASH. U.L.Q. 1 in discussing U.C.C. Article 6); *id.* at 4-28 n.137 (relying upon Miller, *Bulk Sales Law: Requirements*, *supra* note 2 in discussing U.C.C. Article 6).

bulk sales statutes.[10]

Frank soon turned from bulk sales to tort law, an area in which he had been teaching. The April 1957 *Law Quarterly* published his article, *A Primer of Absolute Liability*.[11] In 1961, Frank and his colleague at Washington University, Arno Becht, ventured further into tort law with the publication of their book, *The Test of Factual Causation in Negligence and Strict Liability Cases*.[12] The book was well received. Professor Leflar, reviewing it for the *Harvard Law Review*, characterized *Factual Causation* as "careful, comprehensive, [and] illuminating."[13] The authors, he observed, had set about to examine critically the law's purported logic and to seek improvement in it; they performed these tasks "remarkably well."[14] Courts[15] as well as academic writers[16] have recognized this book as a major part of the "causation" literature. In *Factual Causation*, for example, Frank and Arno included a thorough

10. P. ALCES, *supra* note 8, at 4-6 to 4-8 (relying upon Miller, *Bulk Sales Law: Property Included*, 1954 WASH. U.L.Q. 1, and characterizing the article as "thoughtful").

11. Miller, *Primer of Absolute Liability*, 1957 WASH. U.L.Q. 99.

12. A. BECHT & F. MILLER, THE TEST OF FACTUAL CAUSATION IN NEGLIGENCE AND STRICT LIABILITY CASES (1961) [hereinafter FACTUAL CAUSATION].

13. Leflar, Book Review, 75 HARV. L. REV. 1691, 1694 (1962).

14. *Id.* Other reviews also appeared. *See* Kohn, Book Review, 1961 WASH. U.L.Q. 453, 461 (*Factual Causation* "painstakingly presented a new, fresh and thorough approach to the question of factual causation"); Mills, Book Review, 7 ST. LOUIS U.L.J. 194, 198 (1962) (*Factual Causation* is excellent and a valuable addition to scant writing on causation and deserves serious attention); Morris, Book Review, 29 U. CHI. L. REV. 606, 607 (1962) (authors of *Factual Causation* are modern counterparts of Beale and MacLachlan, who had previously tried to conjure a more definite law of proximate causation out of factual cause analysis).

15. Travis v. Motor Vessel Rapids Cities, 315 F.2d 805, 813 (8th Cir. 1963) (noting trial judge's reliance on *Factual Causation*); Hill v. State, 398 A.2d 1130, 1131 (R.I. 1979) (citing *Factual Causation* as general authority concerning role of judge and jury on causation in tort litigation). When the Oregon Supreme Court called for amicus curiae briefs on proximate causation, the order specifically referred counsel to—among other sources—*Factual Causation*. Dewey v. A.F. Klaveness & Co., 379 P.2d 560, 563 n.2 (Or. 1963) (O'Connell, J., specially concurring). *See also* Ferega v. State Farm Mutual Auto. Ins. Co., 15 Ill. App. 3d 246, 251, 303 N.E.2d 459, 463 (1973) (Moran, J., dissenting) (citing *Factual Causation* for scholarly discussion of causation of injury); Jackson v. Ray Kruse Constr. Co., 708 S.W.2d 664, 673 n.3 (Mo. 1986) (Welliver, J., dissenting) (including *Factual Causation* in list of recent scholarly work on causation).

16. *See* Moore, *Thompson's Preliminaries About Causation and Rights*, 63 CHI.-KENT L. REV. 497, 519-21 (1987) (discussing "the Becht/Miller/Keeton/Wright view of causation"); Palmer, *A General Theory of the Inner Structure of Strict Liability: Common Law, Civil Law, and Comparative Law*, 62 TUL. L. REV. 1303, 1323 (1988) (discussing *Factual Causation* as offering the "central insight" that causal relation in strict liability "has a factual and nonhypothetical quality"); Wright, *Causation in Tort Law*, 73 CALIF. L. REV. 1735, 1784-88 (1985) (discussing *Factual Causation* as "comprehensive attempt to demonstrate how the concept of undefined, directly observable causal contribution is applied in tort analysis").

analysis of what was then the recently-published work by H.L.A. Hart and Tony Honore, *Causation in the Law*.[17] When Hart and Honore published a second edition of their book in 1985, they included an extensive commentary on the differences between their perspectives and those of Becht and Miller as developed in *Factual Causation*.[18]

Frank channeled his scholarly efforts into criminal law through his involvement in the American Bar Foundation's ambitious empirical Survey of the Administration of Criminal Justice in the United States.[19] Begun in the early 1950s, the project was directed by Professor Frank J. Remington, who in 1949 had succeeded Frank Miller as Editor-in-Chief of the *Wisconsin Law Review*. Field researchers gathered empirical data during the mid-1950s. Frank Miller joined the project when its analysis phase began in the late 1950s.

Frank's special interest lay in the prosecutor's charging decisions and in controls of prosecutorial discretion. In 1962, he and Frank Remington published an article on pretrial procedures based on the Bar Foundation data.[20] In 1964, Frank published an article on the preliminary examination[21] and another on prosecutorial dominance of the decision to issue an arrest warrant.[22] Both were based on data obtained in the Survey of the Administration of Criminal Justice in the United States.

In 1969, Frank published a book based on the Survey data—*Prosecution: The Decision to Charge a Suspect with a Crime*.[23] *Prosecution* was an important book because Frank, using empirical data, described and analyzed the entire process of prosecutorial charging of criminal offenses. The book materially changed the way we think about the charging process and the role of the public prosecutor in it.

Courts have relied on *Prosecution* in numerous appellate opinions. In *Gerstein v. Pugh*,[24] the United States Supreme Court referred to it in

17. H.L.A. HART & A.M. HONORE, CAUSATION IN THE LAW (1959).

18. *See* H.L.A. HART & T. HONORE, CAUSATION IN THE LAW lvi-lxii (2d ed. 1985).

19. Legal history is one of Frank's many interests. In 1958, he published an article examining the historical development of venue rules in criminal cases. *See* Miller, *Constitutional Limitations on the Power of the Missouri Legislature to Provide for Venue in Criminal Cases*, 1958 WASH. U.L.Q. 35.

20. Miller & Remington, *Procedures Before Trial*, 339 ANNALS 111 (1962) (translated into French and published as Chapter 7 of *The Penal System of the United States*).

21. Miller & Dawson, *Non-use of the Preliminary Examination: A Study of Current Practices*, 1964 WIS. L. REV. 252 (1964).

22. Miller & Tiffany, *Prosecutor Dominance of the Warrant Decision: A Study of Current Practices*, 1964 WASH. U.L.Q. 1.

23. F. MILLER, PROSECUTION: THE DECISION TO CHARGE A SUSPECT WITH A CRIME (1969).

24. 420 U.S. 103 (1974).

discussing the standard of proof in a preliminary examination.[25] Lower federal courts have used *Prosecution* to show the need for controlling prosecutorial discretion,[26] to demonstrate the practice of selective prosecution,[27] and to show that the decision to prosecute is essentially a discretionary one.[28]

State appellate courts have also frequently relied upon *Prosecution* in discussion of a wide variety of practices. It has been cited to establish the proposition that ultimate charging responsibility rests with the public prosecutor, not the police.[29] The Michigan Supreme Court cited *Prosecution* in support of prosecutorial discretion to charge fewer than the maximum number of offenses the evidence would support.[30] Courts have also cited *Prosecution*'s discussion of modern legislative limitations on the traditional prosecutorial power of nolle prosequi.[31] They have also cited *Prosecution*'s conclusions that the prosecutor's charging discretion is generally not subject to judicial control[32] and that in exercising discretion prosecutors do not have objective standards for guidance.[33] At least one appellate tribunal has also relied on *Prosecution*'s treatment of the subject of private prosecution.[34] Several courts have referred to the discussion in *Prosecution* of the bind-over standard at the preliminary examination in determining the appropriate standard for their jurisdictions.[35] *Prosecution* has been cited for the proposition that prosecutorial discretion is the foundation of modern diversion programs.[36]

Prosecution has also been widely used in the academic literature. It, of course, has been cited for its legal analysis.[37] But most important, it has

25. 420 U.S. at 121.

26. United States v. Roberts, 600 F.2d 815, 818 n.12 (D.C. Cir. 1979).

27. United States v. Goldstein, 342 F. Supp. 661, 668 (E.D.N.Y. 1972).

28. Green v. City of Glen Cove, 332 F. Supp. 916, 918 (E.D.N.Y. 1971).

29. People v. Gallego, 430 Mich. 443, 451 n.4, 424 N.W.2d 470, 476 n.4 (1988).

30. People v. Davis, 408 Mich. 255, 290 N.W.2d 366 (1980).

31. People v. Stewart, 52 Mich. App. 477, 217 N.W.2d 894 (1974); Missouri *ex rel.* Norwood v. Drumm, 691 S.W.2d 238 (Mo. 1985); State v. Starrish, 860 Wash. 2d 200, 544 P.2d 1 (1975).

32. People v. Fields, 391 Mich. 206, 216 N.W.2d 51 (1974).

33. People v. Adams, 34 Mich. App. 546, 192 N.W.2d 19 (1971).

34. State v. Merski, 333 A.2d 159, 160 (N.H. 1975).

35. Myers v. Commonwealth, 298 N.E.2d 819, 824 (Mass. 1973); State v. Florence, 239 N.W.2d 892, 901 (Minn. 1976); Jewett v. Siegmund, 263 A.2d 678, 679 (N.H. 1970).

36. State v. Marino, 100 Wash. 2d 719, 674 P.2d 171 (1984).

37. Cardenas, *The Crime Victim in the Prosecutorial Process*, 9 HARV. J.L. & PUB. POL'Y 357, 377 n.101 (1986) (citing *Prosecution* for proposition some jurisdictions have not needed judicial or prosecutorial approval for one to hire a private attorney to aid a public prosecutor); Mandiberg, *Protecting Society and Defendants Too: The Constitutional Dilemma of Mental Abnormality and In-*

provided rich descriptions and analyses of practices from which other scholars have been able to work. Later authors have, for example, relied upon its careful documentation of the immense discretion that prosecutors have.[38] Moreover, they have drawn upon its discussions of the reasons why such discretion exists[39] and the bases on which that discretion is exercised in practice.[40] *Prosecution*'s careful analyses of particular subissues presented by prosecutorial discretion have been especially helpful.[41] Later laborers in the vineyards have used these analyses in relating the exercise of prosecutorial discretion in relatively narrow areas to over-

toxication Defenses, 53 FORDHAM L. REV. 221, 234 n.58 (1984) (*Prosecution* cited in support of proposition that prosecutors could choose to prosecute when evidence meets either a "probable cause" or "directed verdict" standard); Schwartz, *The Limits of Prosecutorial Vindictiveness*, 69 IOWA L. REV. 127, 162 n.155 (1983) (*Prosecution* cited as justifying broad prosecutorial discretion on the basis of constitutional doctrine of separation of powers).

38. Sullivan, *The Antitrust Division as a Regulatory Agency: An Enforcement Policy in Transition*, 64 WASH. U.L.Q. 997, 1005 n.27 (1988); Comment, *Judicially Initiated Prosecution: A Means of Preventing Continued Victimization in the Event of Prosecutorial Inaction*, 76 CALIF. L. REV. 727, 740 n.68 (1988).

39. Galanter, *Reading the Landscape of Disputes: What We Know and Don't Know (and Think We Know) About Our Allegedly Contentious and Litigious Society*, 31 UCLA L. REV. 4, 15 n.59 (1983) (*Prosecution* cited in support of assertion that prosecutors with limited resources, limited information and other considerations to accommodate often fail to respond to complaints).

40. Blomquist, *Rethinking the Citizen as Prosecutor Model of Environmental Enforcement Under the Clean Water Act: Some Overlooked Problems of Outcome-Independent Variables*, 22 GA. L. REV. 337, 394 n.163 (1988) (reference to *Prosecution* as developing general reasons why prosecutor might decide not to prosecute a defendant); McMunigal, *Disclosure and Accuracy in the Guilty Plea Process*, 40 HASTINGS L.J. 957, 993 n.108 (1989) (*Prosecution* cited as providing evidence that prosecutors may be reluctant to dismiss charges because they view defendants as "bad actors" deserving of punishment and may consider noncriminal conduct and unprovable criminal conduct in making these assessments of defendants' characters); Note, *Bias Crimes: Unconscious Racism in the Prosecution of "Racially Motivated Violence,"* 99 YALE L.J. 845, 854 n.43 (1990) (*Prosecution* cited as suggesting that prosecutors may more readily accept decisions not to prosecute from minority assault victim than from white victims).

41. Gifford, *Meaningful Reform of Plea Bargaining: The Control of Prosecutorial Discretion*, 1983 U. ILL. L. REV. 37, 48 nn.64, 66 (*Prosecution* provides a "complete description" of the preliminary hearing role and the limitations that prevent it from being an effective check on prosecutorial discretion); Schwartz, *The Limits of Prosecutorial Vindictiveness*, 69 IOWA L. REV. 127, 163 n.161 (1983) (*Prosecution* cited as defending broad prosecutorial discretion on the grounds of legislative tendencies to overcriminalize conduct and to provide for overly harsh sentences as well as on the ground of facilitating individualized treatment of offenders); Note, *Waiver of Jury Trials in Federal Criminal Cases: A Reassessment of the "Prosecutorial Veto,"* 51 FORDHAM L. REV. 1091, 1103 n.71 (1983) (*Prosecution* cited in support of proposition that prosecutors' duty extends to protecting community); *Developments in the Law—Race and the Criminal Process*, 101 HARV. L. REV. 1472, 1523 n.11 (1988) (citing *Prosecution* for proposition that less formal controls on prosecutorial discretion—such as public opinion and police/judicial suggestions—are as ineffective as formal controls on that discretion).

all practices[42] and in probing prosecutorial discretion in particular subareas[43] or with regard to particular issues.[44]

It should not be surprising that courts and scholars have found *Prosecution* to be such a rich source of ideas and information concerning the criminal process and the role of the public prosecutor in it. The book reflects Frank's careful analysis of the huge amount of empirical information gathered by the American Bar Foundation's researchers and an extremely effective presentation of the charging practices disclosed by this analysis. Further, Frank was characteristically comprehensive in his discussions of the many issues raised by charging decisions and similarly analytic in exploring possible resolutions of those issues. And, like all of Frank's work, the book is superbly written.

Many serious law teachers sooner or later acquire the urge to develop their own teaching materials. That happened to Frank in the mid-1960s. He and a colleague at Washington University School of Law assembled a collection of over 1800 mimeographed pages of cases and other materials for a new course. The course was to encompass the criminal justice process, the juvenile justice process, and the mental health process. The idea was to make a comparative evaluation of these three major systems in which the government seeks to influence behavior by actual or threatened deprivation of liberty. The course and materials were given the name, "Systems of Legal Control of Socially Deviant Behavior," an accurate if somewhat awkward title.

The course was taught from these materials for several years. They were revised each year in light of experience gained from teaching with

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42. Besharov, *Child Abuse: Arrest and Prosecution Decision-Making*, 24 AM. CRIM. L. REV. 315, 336-37, 339, 356 (1987) (relating practices in child abuse cases to general prosecution decisionmaking).

43. Blomquist, *Rethinking the Citizen as Prosecutor Model of Environmental Enforcement Under the Clean Water Act: Some Overlooked Problems of Outcome-Independent Variables*, 22 GA. L. REV. 337, 394 n.163 (1988) (referring to *Prosecution* in considering prosecutorial discretion in context of environmental regulations); Sullivan, *The Antitrust Division as a Regulatory Agency: An Enforcement Policy in Transition*, 64 WASH. U.L.Q. 997, 1005 n.27 (1986) (antitrust enforcement).

44. These include issues as diverse as racial discrimination in criminal justice administration, *see, e.g.*, Note, *Bias Crimes: Unconscious Racism in the Prosecution of "Racially Motivated Violence,"* 99 YALE L.J. 845, 854 n.43 (1990) (*Prosecution* cited as suggesting that prosecutors may more readily accept decisions not to prosecute from minority assault victim than from white victims), and use of suspects' self-incriminating admissions in criminal litigation, *see, e.g.*, Comment, *Corroborating Confessions: An Empirical Analysis of Legal Safeguards Against False Confessions*, 1984 WIS. L. REV. 1121, 1193 n.353 (citing *Prosecution* for the proposition that prosecutors are sometimes willing to prosecute cases in which the evidence lacks sufficient corroboration of a confession because they expect a guilty plea).

them. Two more authors were added, a publisher was found, and Foundation Press finally published the materials as a casebook in 1971 under the new title *Cases and Materials on Criminal Justice Administration and Related Processes*.[45] At 1745 pages, the book was long; experience proved it too long for a single casebook.

Harold Eriv, President of Foundation Press, urged that parts of the book be made available to students in paperback form, both to enable more compact courses to be taught from the materials and to minimize costs to the students. Thus, portions of the book were reprinted as paperback casebooks: the material on legal control of police practices was published as a paperback titled, *The Police Function*;[46] the portion of the book on sentencing and corrections was published as *The Correctional Process*;[47] the juvenile material was published as *The Juvenile Justice Process*;[48] and, the mental health material was published as *The Mental Health Process*.[49] Thus, in 1971, the hardback casebook and the four paperback partial reprints appeared and were adopted by various law schools and college criminal justice departments around the country.

Because the criminal and juvenile justice segments of the materials were rapidly changing as a consequence of continued interest in these subjects by the United States Supreme Court, supplements to the casebook were required to be published in 1973,[50] 1974,[51] and 1975.[52] In 1975, it became apparent that a new edition was required. It was also apparent that it would no longer be possible to contain these three subjects between a single set of covers.

Accordingly, *Criminal Justice Administration and Related Processes* was divided into four hardback casebooks, which were published in 1976.

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45. F. MILLER, R. DAWSON, G. DIX & R. PARNAS, CASES AND MATERIALS ON CRIMINAL JUSTICE ADMINISTRATION AND RELATED PROCESSES (1971).

46. F. MILLER, R. DAWSON, G. DIX & R. PARNAS, THE POLICE FUNCTION (1971).

47. F. MILLER, R. DAWSON, G. DIX & R. PARNAS, THE CORRECTIONAL PROCESS (1971).

48. F. MILLER, R. DAWSON, G. DIX & R. PARNAS, THE JUVENILE JUSTICE PROCESS (1971). Frank has a special interest in juvenile justice. He took primary responsibility for the revisions of those materials. In 1984, he published an article analyzing the conflicting statistics on the nature and extent of juvenile crime. Miller & Levy, *"Facts" About Juvenile Justice*, 1984 S. ILL. U.L.J. 529.

49. F. MILLER, R. DAWSON, G. DIX & R. PARNAS, THE MENTAL HEALTH PROCESS (1971).

50. F. MILLER, R. DAWSON, G. DIX & R. PARNAS, CASES AND MATERIALS ON CRIMINAL JUSTICE ADMINISTRATION AND RELATED PROCESSES (Supp. 1973).

51. F. MILLER, R. DAWSON, G. DIX & R. PARNAS, CASES AND MATERIALS ON CRIMINAL JUSTICE ADMINISTRATION AND RELATED PROCESSES (Supp. 1974).

52. F. MILLER, R. DAWSON, G. DIX & R. PARNAS, CASES AND MATERIALS ON CRIMINAL JUSTICE ADMINISTRATION AND RELATED PROCESSES (Supp. 1975).

The material on the criminal justice process up to, but not including, sentencing was revised and published as *Cases and Materials on Criminal Justice Administration*.[53] Harold Eriv, a stickler on truth in publishing, insisted that it be called a "Successor Edition" rather than a "Second Edition" since its scope had been so drastically altered. The juvenile material was published as *Cases and Materials on the Juvenile Justice Process*.[54] The correctional material from the original book was published as *Cases and Materials on Sentencing and the Correctional Process*.[55] Finally, the mental health material was published as *Cases and Materials on the Mental Health Process*.[56] As in the past, the police practices portion of the *Criminal Justice Administration* book was reprinted in paperback form.[57] A new paperback was published reprinting the judicial portion of the criminal justice materials under the title, *Prosecution and Adjudication*.[58]

A supplement to *Criminal Justice Administration* has been published every year since 1977. A second edition was produced in 1982[59] and a third edition was published in 1986.[60] A fourth edition has been completed and will be published in 1991. Each new edition of *Criminal Justice Administration* included the paperback reprints, *The Police Function* and *Prosecution and Adjudication*. Supplements to *The Juvenile Justice Process* and *The Mental Health Process* were published in 1980[61] and 1981,[62] respectively. A third edition of *The Juvenile Justice Process* was

53. F. MILLER, R. DAWSON, G. DIX & R. PARNAS, CASES AND MATERIALS ON CRIMINAL JUSTICE ADMINISTRATION (Successor ed. 1976).

54. F. MILLER, R. DAWSON, G. DIX & R. PARNAS, CASES AND MATERIALS ON THE JUVENILE JUSTICE PROCESS (2d ed. 1976).

55. F. MILLER, R. DAWSON, G. DIX & R. PARNAS, CASES AND MATERIALS ON SENTENCING AND THE CORRECTIONAL PROCESS (2d ed. 1976).

56. F. MILLER, R. DAWSON, G. DIX & R. PARNAS, CASES AND MATERIALS ON THE MENTAL HEALTH PROCESS (2d ed. 1976).

57. F. MILLER, R. DAWSON, G. DIX & R. PARNAS, THE POLICE FUNCTION (2d ed. 1976).

58. F. MILLER, R. DAWSON, G. DIX & R. PARNAS, PROSECUTION AND ADJUDICATION (1976).

59. F. MILLER, R. DAWSON, G. DIX & R. PARNAS, CASES AND MATERIALS ON CRIMINAL JUSTICE ADMINISTRATION (2d ed. 1982).

60. F. MILLER, R. DAWSON, G. DIX & R. PARNAS, CASES AND MATERIALS ON CRIMINAL JUSTICE ADMINISTRATION (3d ed. 1986).

61. F. MILLER, R. DAWSON, G. DIX & R. PARNAS, THE JUVENILE JUSTICE PROCESS (Supp. 1980).

62. F. MILLER, R. DAWSON, G. DIX & R. PARNAS, THE MENTAL HEALTH PROCESS (Supp. 1981).

published in 1985.[63]

In retrospect, it is fair to say that Frank's original idea in 1964 that "We ought to put together some materials on these things and teach a course on them" rapidly expanded beyond control. It resulted in an annual ritual of supplementation with total revision chores occurring on roughly a five year schedule. Each of his co-authors, at times, wished Frank had been less ambitious in his original conception. But Frank never wavered in his belief that the original idea was a good one; he only regretted that the relentless flow of opinions from the Supreme Court made it impossible to continue with the original comparative concept of the course and the materials.

Frank Miller's legal scholarship spans forty years in as diverse areas as commercial law, torts, and criminal procedure. Some has been more traditional doctrinal analysis, but much has had a particularly valuable empirical component. As collaborators and former colleagues of Frank's, we followed closely the development of those parts of his scholarship on which we collaborated. These experiences left us convinced of the high quality of all of Frank's work. We are gratified but hardly surprised that judges and scholars denied the opportunity to work with Frank have confirmed our judgment by paying his work the highest possible tribute—its incorporation into their own opinions, articles, and books.

63. F. MILLER, R. DAWSON, G. DIX & R. PARNAS, CASES AND MATERIALS ON THE JUVENILE JUSTICE PROCESS (3d ed. 1985).