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WILLIAM EPHRAIM MIKELL

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William Ephraim Mikell, who taught in this Law School for forty-six years, died in Charleston, South Carolina, on January 20th and was buried on Edisto Island, where his ancestors settled nearly two and one-half centuries ago.

He was born January 29, 1868, in Sumter, South Carolina, where he received his early education. In 1886 he won a state-wide competition for a scholarship in the South Carolina Military College, generally known as The Citadel, and four years later received the degree of Bachelor of Science from that institution. After graduating he was principal of Blackstock Academy in South Carolina for two years and then became principal of the Piedmont Seminary in Lincolnton, North Carolina. While holding this position he read Blackstone's Commentaries in the evenings and during the summer of 1894 he attended the University of Virginia Law School, of which Judge Minor was then dean, for a term of six weeks. During his stay in Lincolnton he married Miss Martha Turner McBee, who survives him. He was admitted to the Bars of North and South Carolina in 1896 and practiced several months in his birthplace, Sumter, South Carolina. The turning point in his career occurred in the spring of 1896 when he came to Philadelphia as one of the many young lawyers who were assisting George Wharton Pepper and William Draper Lewis in the preparation of the *Pepper and Lewis Digest of Pennsylvania Decisions*. In the fall of that year Dr. Lewis became Dean of the Law School and on his recommendation Mikell was appointed an instructor. His progress was rapid and he was promoted to Assistant Professor in

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1899 and to Professor in 1902. When Dr. Lewis resigned the deanship in 1914, Mikell was appointed to succeed him, serving until 1929, when he retired in order to devote all his time to teaching and writing. He was made Professor Emeritus in 1938, but continued his teaching under special appointment as lecturer until the spring of 1943. After a summer spent as usual in Castine, Maine, he returned to Philadelphia and occupied an office in the Law School, where he spent his time in study and writing until the early part of January when he went to Charleston in order to escape the rigors of the northern climate.

Mikell won distinction as a teacher, scholar and administrator. Above all he was an inspiring and effective teacher. Although his formal legal education consisted of attendance for only six weeks at a lecture course, he quickly adapted himself to the case method and employed it with pronounced success. He was particularly adept in training new students to analyze and solve legal problems. He was never dogmatic, but always stimulating and suggestive. One of his favorite methods was to lead a student adroitly along a line of fallacious reasoning until the fallacy was evident to the student as well as to the other members of the class. He took delight in teaching and this was reflected in the interest of his students, whose respect and affection he always retained. His casebooks on Criminal Law and Criminal Procedure were highly regarded and extensively used by teachers of these subjects.

His writings were chiefly concerned with the Criminal Law. In other fields he wrote a volume on *Dental Jurisprudence* and an article on the "Treaty-Making Power of the President and the Senate of the United States." He also contributed the *Life of Roger Brooke Taney* to the series, *Great American Lawyers*, and wrote several articles on the same subject. He was a member of the Editorial Committee of the Association of American Law Schools, which edited *Select Essays in Anglo-American Legal History* and the *Continental Legal History Series*.

Mikell was a leader in the movement to simplify and humanize criminal law and procedure. He published in 1915 the draft of a statute providing for simple forms of indictment. His critical study of the Penal Code of Pennsylvania, presented in an address delivered to the Law Association of Philadelphia, led to the appointment of a Commission to prepare a revision of this Code. Mikell was the Secretary and Draftsman of the Commission, which completed its work in 1922. While the revision was not adopted, he had demonstrated his skill as a legislative draftsman. When the American Law Institute decided in 1924 to prepare the draft of a Code of Criminal Procedure, he was appointed senior Reporter. He was well equipped for this

work. To an extensive knowledge of the subject acquired through long study he added clarity of thought and precision of statement. Though never opinionated he was firm in adhering to his well grounded convictions. One of his associates in the preparation of the Code wrote me: "His complete integrity and high-souled genuineness of thought and action made a deep impression upon me. And his accomplishments as a legal scholar and teacher rank him among the most notable figures of our profession."

Further valuable contributions to the work of the American Law Institute were made by him. In 1935 he presented, as Reporter, the draft of an act on Double Jeopardy and later he was an Adviser in the preparation of the Model Youth Correction Act. After his official retirement he continued to write and in 1942 published an article on "The Doctrine of Entrapment in the Federal Courts." For several years he was engaged in an intensive study of the problems of the mental element in crime. Unfortunately for those interested in this subject the work was not completed.

Mikell was temperamentally well fitted for administrative work although he had no great enthusiasm for it. Always courteous and patient, he was at the same time firm in his stand when a matter of principle was involved. Throughout his administration, which covered the difficult periods of the First World War and the expansive era of the late twenties, he never swerved in his maintenance of high standards for the admission and graduation of students. While details were distasteful to him, he never neglected them. He was not impulsive nor did he permit himself to be hurried in making a decision. His official relations with the other members of the faculty were marked to an exceptional degree by a harmony of respect and friendship. He was always accessible to students and never spared time or effort in assisting them.

My personal relations with Will Mikell were based on an intimate friendship which began some years before I became his colleague in 1915. He was a delightful companion. In conversation he combined subtle humor with a wit that was always sprightly and sometimes even playful. Ordinarily men become more conservative in their opinions as they grow older. This was not true of Will Mikell, for he was always ready to accept new ideas which his reason approved, and his attitude toward public and social problems became increasingly liberal. He had a great capacity for enjoyment. Reading of fiction was his chief diversion, but he also liked games—golf, billiards, bridge—and played them well. Simply to be alive was for him a pleasure and he resented as wasted the hours spent in sleep.