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Book Review

Philip J. Bourne

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Chief Justice Stone's influence on the philosophical foundations of American rules of conflict of laws.

The second section of the book has few ties with either of the other two parts. The three essays here, all pleasant reading and fairly provocative, range from a discussion of the need for improved teaching of law and legal thinking in our law schools, to a discussion of the limits of rationality in judicial decision making.

The above evaluations of Professor Freund's work perhaps are ungenerous. The individual essays in the book are, for the most part, excellent, even if limited. But he nowhere claims to be all-embracing or perfect, and that makes carping criticism unjust. The volume is well indexed (and indeed some question can be raised if it is not over-indexed, as the inclusion of a table of cases in such a work seems not really necessary). The book should provide interesting reading and provocative ideas for those who make its acquaintance.

It might best be summed up, in describing it briefly, as a catalyst that may well cause many others to think more (and more deeply) about the supreme importance to society of the American Supreme Court and the American Constitution.

SCRIBES, the highly respected honor society of law writers of the nation, has chosen Professor Freund's book, *On Law and Justice*, as its prize winner for its 1969 award as the best book on or about law or lawyers written in the preceding year. Such an endorsement, by such a group of scholars, suggests that this book is very much worth reading.

*Reviewed by Philip J. Bourne**

THE NEGLIGENT DOCTOR. By Charles Kramer. New York, N. Y.; Crown Publishers, Inc., 1968. Pp. 255. \$5.95.

The author's avowed purpose in this book is "to alert the victims of medical negligence," and to "remind the medical profession that it has pledged itself to exert care, wisdom and professionalism in its treatment of those who have entrusted their health and very life to its abilities."

I question whether the book will accomplish either of these purposes.

The volume is, in actuality, a technical collection of litigated malpractice cases handled by the author. To the extent that its material involves highly sophisticated approaches to both medical and legal concepts I seriously doubt that the lay reader will find "The Negligent Doctor" of much more interest than a medical atlas.

For both the law student who aspires to trial work and the prac-

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ticing trial lawyer, however, "The Negligent Doctor" is a delight and a treasure house of helpful methodology in medical malpractice trial work. A major portion of the book is devoted to excerpts from actual transcripts of trials, in which the author, as plaintiffs' counsel, conducted both direct examination and cross examination of medical witnesses. The book illuminates the amount of medical research necessary by the legal practitioner in order to unmask the erring physician.

While the author refers many times throughout the book to the "conspiracy of silence" wherein the medical brotherhood refuses to expose each other's professional shortcomings, there is on the part of Mr. Kramer an almost cynical acceptance of this facet of malpractice trial work. If the illustrations in his volume are typical examples of all of his medical cases, it hasn't slowed him down too much. I would tend to doubt that this is true.

The second avowed purpose in the book is both pedantic and presumptuous. I do not believe that the vast majority of medical practitioners need to be reminded of their obligations to their patients. And certainly, if they need be reminded at all, the medical profession has come to a sorry pass indeed if it takes a money judgment to jog their flagging memory.

The fact remains, however, that this book has a definite place in the library of the practicing trial lawyer. It is a fine manual of classic cross examination of hostile medical witnesses as well as a good basic summary of medical malpractice law.

*Reviewed by William Tabac**

DO YOU SOLEMNLY SWEAR? By Louis B. Heller. Doubleday & Co., Inc.; Garden City, N. Y., 1968. XII and 491 pp. \$7.50.

Not long ago, an attorney argued a draft case before a United States Court of Appeals, which had arisen because his three clients had failed to report for induction. In response to a question from the panel, the attorney told the Court that each of his clients had received a number of notices threatening him with all kinds of things should he fail to report for processing at the specified time. The attorney said that his clients ignored the notices because they did not wish to become involved with a system that, in their own words, "sent young men to Viet Nam to be slaughtered in an immoral war."

It obviously pained the attorney to make this statement to the Court, for he gesticulated wildly and drank dry the water provided for him on the lectern. Upon receiving no further queries from the panel, the attorney began his argument to the Court, which was identical to

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