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Book Reviews

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BOOK REVIEWS

NEGLECTANCE CASES: WINNING STRATEGY. By Harry A. Gair and A. S. Cutler. Englewood Cliffs, New Jersey. Prentice-Hall, Inc. 1957. Pp. 355. \$7.50.

UPON graduation from law school and subsequent admission to practice, the young lawyer is substantively prepared for his first negligence case, but he soon learns that there is more to this case than the issues of negligence, contributory negligence and damages. He finds himself in the position of a chef attempting to use a recipe which does not specify which ingredients to mix together, which does not specify cooking time, or which is missing certain ingredients. The lawyer's ingredients are his facts, and he must handle them with extreme care and skill in order to produce a satisfactory result. Unfortunately, many lawyers believe that this requisite care and skill can be acquired only through years of experience in handling this type of case and immediately refer such a case to an expert. Although this may be a very prudent practice, it overlooks the fact that the well rounded lawyer should have the facility to handle a negligence case in the event the case is not of sufficient interest or substance to interest the expert. Negligence Cases: Winning Strategy goes a long way in the development of that facility.

The authors of this book are acknowledged experts in trial techniques especially in the area of negligence cases and the reader can not fail to benefit from the vast experience of these veterans. They have attempted to do a start to finish job, from the initial stages, through pre-trial preparation, through the trial and have even included a section on settlement tactics. It is obvious that an entire book could be written on each one of these topics, but the authors have done a remarkable job in this encyclopaedic attempt.

Probably the most important contribution of this work is the section on settlement of negligence cases. It is significant that this is the last section of the book. The large majority of negligence cases are settled before trial but this fact might lead the inexperienced lawyer to the catastrophic conclusion that this means he can spend less time in the preparation of his case. This misimpression causes the loss of large sums of money for plaintiffs and their inexperienced lawyers.

The settlement dossier offered by the authors starting on page 332 is alone worth the purchase price of the book. It discloses the tremendous amount of preparation necessary to properly process a negligence action. This preparation will not only strengthen the plaintiffs' settlement position, but it will also get him ready for trial. The two concepts can not be divorced. The importance to the lawyer of this dossier can not be overstated because it makes it obvious to him that whether the case will go by settlement or trial there is but one fundamental approach to preparation. Poor preparation will not only hurt him at the trial, but it will also hurt him in settlement. The topic is very well handled by the authors.

It is submitted that another valuable contribution of the book is the verbatim report of a summation to a jury, entitled "A Winning Summation in a Difficult Case." We find here the subtlety and craft of experience. There is much to be learned from the approach to fixing the liability of the defendant, but even more so on the element of damages. The case involved is one for wrongful death, where the measure of damages is limited by the earning capacity of the deceased for the balance of his life expectancy. It is most instructive and thought provoking to observe the approach by the trial expert in expanding the damages to include the grief of the surviving family.

There are other excellent sections on proof of medical facts and cross-examination. These are two of the great pitfalls of the inexperienced negligence trial attorney

and it can be safely said that even the experienced attorney can find room for improvement in these areas.

The entire book is handled on a level which avoids the dull and ponderous and its style makes for facile reading. This in fact may be one of the few criticisms of the work. It may read too fast. The book could have been fortified by references to other works and to case citations. No doubt check lists might have been included at the end of each section. On the whole, though, the book makes a valuable contribution in the field of the negligence case.

MILTON A. SILVERMAN

PROFESSOR OF LAW
NEW YORK LAW SCHOOL

HOW TO FIND THE LAW. Fifth edition. St. Paul: West Publishing Co., 1957. Pp. xxi; 207. \$5.00.

NUMEROUS lawyers who studied during the past three decades will remember "How to find the Law" with fond and slightly melancholy gratitude. It guided them faithfully through the maze of legal materials yet almost crushed them under the weight of information. Its profuseness reflected the nature of our law which, far from being hitched to a single location, flows from multiform sources. Expansiveness, however, does not appeal to an age which believes in trimness and speed. Bowing to these modern postulations, the Fifth edition differs strikingly in length, coverage, arrangement and treatment from its predecessors. Pruning the 740 pages of the Fourth edition to 207, it eliminates discussions of procedures, brief writing, appeal techniques, curtails references to legal history and regional bibliographies, and concentrates on the actualities of literature search. Soundly aware that the library is the foremost rallying point, it strives to make the student at home in the library, explains its general functions, the structure and uses of the card catalog, the helpfulness of non-legal reference aids. This, in conjunction with the fundamental law materials, gives indeed a well rounded picture of legal research.

The book presents itself as a composite work. Under the editorship of William R. Roalfe, Law Librarian at Northwestern University, individual topics were assigned to thirteen contributors, all members of leading law schools and with a well established academic reputation. Between themselves, they cover the important areas, such as statutes, reports, digests, encyclopedias, dictionaries, citators, manuals, directories, loose leaf services, periodicals, general library materials. Only in very rare cases, treatment seems a trifle sparse—brevity and streamlining does have its price—but altogether the book strikes a most happy balance between comprehensiveness and conciseness. It has kept the useful feature of illustrating its text with sample forms. Practical search problems have been removed from the main pages and appear, with an instructors key, in a slim companion pamphlet.

Breaking with the orthodox pattern of arrangement, the book starts with encyclopedias and digests and leads subsequently into statutes and codes. This, in itself, would be of no consequence, if the Index would be fully adequate. Some entries are missing which one would expect to find. For instance, while the Congressional Globe is listed, the Congressional Record is not; no reference is made to the Federal Supplement, and the Digest of Public General Bills cannot readily be located. On the other hand, the index is greatly reinforced by the Table and the Summary of Contents.

In the thirty years of its existence, "How to find the Law" has gone through a

remarkable metamorphosis. From a massive tome on Legal History, Materials, Practice and Techniques, it has evolved into a finely condensed *vade mecum* to the sources of our living law. Shorn of the real, or presumed, encumbrances of earlier editions, it is now a convenient and helpful utensil for learners, teachers and practitioners.

RUDOLF H. HEIMANSON

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