



CSU
College of Law Library

Cleveland State Law Review

Volume 11
Issue 2 *Heart Attack Symposium*

Book Review

1962

Book Review

Rudolf H. Heimanson
Cleveland-Marshall Law School

Follow this and additional works at: <https://engagedscholarship.csuohio.edu/clevstrev>

 Part of the [Medical Jurisprudence Commons](#), and the [Torts Commons](#)

[How does access to this work benefit you? Let us know!](#)

Recommended Citation

Rudolf H. Heimanson, Book Review, 11 Clev.-Marshall L. Rev. 373 (1962)

This Book Review is brought to you for free and open access by the Journals at EngagedScholarship@CSU. It has been accepted for inclusion in Cleveland State Law Review by an authorized editor of EngagedScholarship@CSU. For more information, please contact library.es@csuohio.edu.

Book Reviews

Reviewed by Rudolf H. Heimanson*

TORT AND MEDICAL YEARBOOK. Vol. I. *Editors in Chief:* Albert Averbach and Melvin M. Belli. Published by Bobbs-Merrill. 749 pages (1961).

Tort and Medical Yearbook is an anthology of medical and legal essays, selected, under the editorship of Albert Averbach and Melvin M. Belli, by a team of equally distinguished specialists. Speaking to both the lawyer and the doctor, it aims at closer contact between the two professions which, different as they are, meet at various crossroads and share a lot of intellectual common ground. To gain a broader perspective of each other's profession, is not only academically desirable but a vital need to the physician who testifies in court, and to the attorney who handles a claim for personal injuries. The book clearly demonstrates that in their average functions, both professions use quite similar approaches: to identify the legal issue is the lawyer's "diagnosis"; his "brief" is the doctor's "prescription"; to decide on a "treatment" means finding "the law of the case"; causation is a major problem in both fields. Many articles are, naturally, devoted to the topic of torts, which, generally speaking, is to the lawyer what trauma is to the physician; consequently, trauma, too, is amply covered. The real scope and depth of the collection, however, cannot be determined merely by its title, it goes, as the reader will be pleased to find, far beyond it. Much consideration is given to the art of cross-examination and to the role played by physician and attorney. The economic implications and effects of personal injury litigation are explored. Actions brought under the Federal Torts Claim Act stir up the vexatious question, what could and what could not, be classified as typical employment activity?

The "tort" the doctor is confronted with may sometimes be his own. Therefore the nature and limitations of medical malpractice are examined. "Trauma," on which the lawyer often wants to base his case, can be emotional as well as physical. In a very illuminating article, the most recent developments in various jurisdictions are surveyed. For example, while New York, in a spectacular overruling of previous holdings, now

* Professor of Law and Librarian, Cleveland-Marshall Law School.

recognizes emotional distress as an "injury," Pennsylvania persists in its stricter views. The related field of psychiatry and its impact on law receives well merited attention in this collection. It also takes cognizance of the fact that many doctors are a family's general confidantes; thus the essay on "actions between members of a family" should appeal to lawyers and physicians alike.

With this first volume, the new series is off to a promising start. It presents doctors and attorneys with a well balanced cross section of the problems common to both; members of both professions will derive great intellectual and professional benefits from it. In its final achievement, it may well cement the "social alliance" between them and transform it from an often uneasy relationship into a satisfying partnership.

* * * * *

*Reviewed by Walter G. Whitlatch**

CRIME AND JUVENILE DELINQUENCY, by Sol Rubin. Published by Oceana Inc., New York, 248 pages, 1961, 2d ed.

In *Crime and Juvenile Delinquency*, Sol Rubin, counsel for the National Council on Crime and Delinquency, examines many of the problems facing courts, penologists, social workers, legislators and the public at large in dealing with criminals and delinquents.

One may not agree with Mr. Rubin on some aspects of the many subjects discussed, but there is much here to stimulate the thinking of all who are concerned with delinquency and penology.

While his approach to the matters presented is basically intelligent, scientific and humane, it seemed to this reviewer that much of his philosophy in respect to delinquency and the juvenile courts lacked the benefit of practical experience.

His proposal that the legal definition of delinquency be limited to law violations would leave no authoritative agency to correct and rehabilitate the truant and the incorrigible. The logic with which he supports his plan is that the juvenile courts

* Judge, Cuyahoga County (Ohio), Juvenile Court.

A first edition was reviewed by E. F. Samore, 8 Clev-Mar. L. Rev. 584 (1959).