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## BOOK REVIEWS

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## BOOK REVIEW

ADVOCACY AND THE KING'S ENGLISH, edited by George Rossman, Salem, Oregon: The Bobbs-Merrill Co., 1960. Pp. 976.

This is an anthology of articles on legal writing gathered and published by the Scribes, "an organization," according to the Foreword, "composed of lawyers who have done superior legal writing." The Editor is the Honorable George Rossman, Associate Justice of the Supreme Court of Oregon, but the identity of the other Scribes and the exact nature and function of their fraternity are undisclosed. The mystery is regrettable, but if the Scribes only publish this one book, their existence (if, in fact, they do exist outside of Judge Rossman's study) is well justified.

Writing by lawyers is notoriously bad writing. It is verbose and dull. Lawyers, acknowledging this, say that it is the unfortunate result of their necessary effort to express legal meanings fully and clearly. It must be said that they fail in that too, as almost any paragraph of the Internal Revenue Code will bear witness. There is really no excuse for the heavy-handed, rambling and repetitious "briefs" which the judges who have contributed to this volume say they are handed at every term of court. The average lawyer probably produces as many written words per year as the average novelist and is, over the years, as well paid for each of them. He should, at least, *try* as hard as the novelist does to give his customers their money's worth. An intelligent client has the right to understand what his lawyer has written for him.

This book, through many tongues, makes that point over and over — that, although we cannot all hope to achieve the majesty of Marshall's style or the warmth of Holmes', we *can* all write, if we but try, with clarity and conciseness. That is all that our courts and our clients want us to do.

Some of the pieces in this collection were evidently selected not only for their substance but also because they are themselves models of graceful and forceful composition. One of the best of these is a speech by the late Justice Robert H. Jackson entitled "Advocacy Before the Supreme Court."

There is also a delightful talk on "Law and Literature" by Lord Justice Birkett, one of the great English lawyers that the American Bar Association brings over from time to time to demonstrate at its annual dinner how the mother tongue is spoken in the mother's home. Mr. Justice Cardozo and Judge Jerome Frank are also contributors to the inspirational, as distinguished from the how-to-do-it, sections of the anthology.

The book has one marked weakness, and a surprising one in view of its central thesis that lawyers repeat themselves. It repeats itself. There are at least twice too many articles dealing with trial techniques and the mechanics of advocacy in appellate courts. Each author says more or less what the previous one has said — "Don't waste time on minor points," "Don't read from your brief," etc. — and they all say it at too great length. Of the articles in this section, those by Judge E. Barrett Prettyman and by Mr. Frederick Benays Wiener will probably be found the most helpful by the young practitioner.

The section entitled broadly "The Use of English" teaches the strongest lessons for all writers of pleadings, judicial opinions and legal instruments. There are essays by Zechariah Chaffee, Jr., and Glanville Williams on our failure to appreciate the science of semantics; by William T. Prosser on the general illiteracy of law students, by Urban A. Lavery on our famed prolixity (giving examples of three hundred word sentences), and by Eugene C. Gerhart on the possibility of our improvement. It is hard to image a conscientious reader of these articles not making an effort in the future to call "The Party of the Second Part" "Jones" to "grant" instead of "granting, bargaining, selling and conveying"; and to take three exceptions to the Supreme Court rather than thirty-three.

Most of the essays are excellent and the rest may be skipped — just as the judges skip the middle part of our fifty page briefs.

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