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BOOK REVIEWS

BRIEF WRITING AND ORAL ARGUMENT. By Edward D. Re. New York; Oceana Publication 1951. pp. X, 150. \$3.50.

All law schools have now adopted some form of Practice Court program. Many have supplemented this system with legal writing projects of various types. Over thirty of our schools have adopted the legal clinic idea. Yet with all this emphasis on the teaching of these practical skills of writing, argument and research, there are suprisingly few good books in this field.

Most of the texts and manuals on writing and research have one failing. They are entirely too big. The authors have failed to recognize that skills in these fields comes primarily through experience, and they have either omitted or camouflaged the basic principles which is all the conscientious student or practitioner needs.

There are of course notable exceptions. The General Practice Series of the Practicing Law Institute has an excellent 41 page pamphlet on brief writing and appeals. Professor Hobart Coffey's *Guide to Legal Research* is another basic manual that avoids burdening the reader with cumbersome and oftentimes unimportant text material. These two fine pamphlets are now joined by Professor Re's excellent manual on brief writing and oral argument.

This compact little manual in clear and simple terms sets out the basic fundamentals and principles of an effective appellate brief, and a convincing oral argument.

The author does not purport to discuss the many intricacies of the effective brief. Had he done so the result would have probably been another exhaustive and cumbersome volume of the type that we have already criticised. Instead he acknowledges that real mastery in this field comes with experience, and can be mastered by the conscientious practitioner who is equipped with the basic fundamentals.

The book is an outline of these basic principles. The introduction is devoted to a discussion of the importance of moot court and legal writing in the student's legal education, and the important preparation period before commencing the actual writing of the brief. This section of course includes a short but adequate treatment on legal research, and the proper reading and evaluating of authorities.

Part II of the manual is devoted to the appellate brief. A sample brief is broken down into its component parts, with good examples illustrating the importance of each part. The illustrations follow the style and rules of the Court of Appeals of the State of New York, and the Supreme Court of the United States, but it is believed the general outline and forms follow pretty much the same pattern in all jurisdictions. In any case the essential parts, such as "Title," "Preliminary State-

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ment," "Questions Presented," "Conclusion," etc. are uniform. Consultation of the particular court rules in any jurisdiction is of course always necessary.

Part III deals with the preparation for and the delivery of the oral argument of the case appealed. The importance of oral argument is clearly explained. The author once again confines his discussion to basic principles and practical suggestions to the young lawyer about to argue his first appeal.

The book concludes with a twenty page discussion of the trial brief and memorandum of law, and contains a great number of valuable suggestions for the young attorney preparing his case for trial, or for the young clerk or research assistant. Many of the points developed under this section would be very helpful to the law student who has trouble developing his answers to the examination questions, as many examinations of the essay type are nothing more than a request for a memorandum of law.

There is no question that this volume can be of invaluable assistance to the law student, the young practitioner and even the senior partner whose labor of many hours may have resulted in an inadequate brief.

*Frank M. Davis

THE NATIONAL ECONOMY IN TIME OF CRISIS: ITS MEANING TO LAWYERS AND THEIR CLIENTS.

(A Series of Lectures Sponsored by the New Jersey Bar Association with an Introduction by Chief Justice Arthur T. Vanderbilt. Distribution through the assistance of the Prudential Insurance Company of America, of Newark, New Jersey.)

This pamphlet which has found its way upon the desk of every attorney this fall, should be removed from the stack of things-to-be-read-sometime, and read. For it is a volume which has many profitable things to say to the attorney who considers it his duty to study and participate in public affairs.

The lectures present with great force the "conservative" way of treating economic problems caused by wartime mobilization. The attorney who has had to deal recently for his client with such vexing matters as price control, wage control, materials allocations and other economic controls of which he disapproves, will find the lecturers' sharp disapproval of controls refreshing. As Newsweek's Henry Hazlett says:

"I will go so far as to say, in fact, that I do not believe that over-all price controls ever does anything but harm, and that even selective price control for a few commodities usually does more harm than good, and is certain to do more harm the longer it is kept." (p. 76)

This is typical of the general point of view of the lecturers, and those who do not agree with this point of view will find the pamphlet challenging, for this is first rate talent represented in the lectures.

The issue which seems ultimately brought to controversy by these lectures is whether inflation is socially harmful. The lecturers all agree that it is and Chief Justice Vanderbilt states the premise this way:

"It will do us little good to maintain individual freedom if inflation destroys our economy and leaves the individual citizen hopelessly dependent on an impoverished state." (p. vi)

Or as Professor Marcus Nadler of New York University states it:

"Inflation is an invisible tax. * * * As lawyers, I am quite sure that you agree with me that it is a highly inequitable and unjust form of tax." (p. 5)

The series of lectures is remarkable not only for the criticism of the present inflationary policies of the present federal administration, but also for the criticism of the present government right down the line. Professor Nadler says:

"Why the rearmament program? * * * I believe the answer lies in the fact that our leaders made one great mistake in the past: They believed that we could make an agreement with international Communism." (p. 11)

Professor Walter E. Spahr says, *a propos* Point IV:-

"Our government in recent years, particularly since 1939, has been in the business of destroying and giving away our national wealth to an extent never before seen by the people of this nation and never before seen or practiced by any other nation in the world. The dissipation of our national patrimony is a phenomenon in the history of human profligacy. It is unmatched in world history." (pp. 22-33)

and on our government's economic policies:-

"We are rushing into totalitarianism through all the doors that our government officials have thus far been able to open." (p. 41)

Professor Leo Wolman of Columbia University says:

"We have gone much too far in the United States in the centralization of labor relations." (p. 55)

It will of course not do here to attempt to summarize all that is said by the lecturers, for it is sufficient if these remarks should encourage the reader to discover that for himself. It is proper, however, I think to add here a few words of criticism of the individual lecturers themselves.

It has always seemed to this writer that Henry Hazlitt places too much emphasis upon credit expansion as the primary cause of inflation. It is undoubtedly important, and it needs emphasis today if our public economy is to be reformed. But emphasis for the purposes of propaganda is one thing and emphasis for understanding another. This writer is quite sure that Mr. Hazlitt understands the phenomenon of inflation completely and that his simplifications are only made for effective writing. The truth is that if credit were subject to free market control, the flame of any artificial credit expansion would quickly burn itself out. But we are not working under a stable-value monetary system, as redeemability of our currency has been abolished. Thus debtor-creditor relationships can always be ad-

justed to a new price level without fear of price level collapse. Thus every artificial expansion of credit does not result in a boom-bust cycle, as it would under classical economic theory, but rather in an irreversible inflationary surge.

However, if the government will not return to a stable-value monetary policy (though there is some agitation today for a return to the gold standard, and that is not a political impossibility and Harold E. Stassen has made it part of his Presidential campaign platform), it should at least refrain from the expansion of credit.

There will doubtless be some who disagree with the substantially uniform economic point of view of the lecturers who will question whether a professional association of lawyers should sponsor a series of lectures which is so uniform in its point of view on economics. In this connection one should remember that it has long since become customary for those in control of professional associations to use them as a forum for the exposition of their own views. This tendency to make professional organizations partisan (or "controversial") has been practiced by the left for the past twenty years and so it remains then for the right to use such advantages as it has as a matter of defense. Why should the right imply approval of the left by its silence? It may be that the time will come when more impartial conduct will prevail, but this appears to be in the distant future.

The justification which is always offered for the presentation of a point of view such as the present pamphlet is that despite its "controversial" nature, the presentation is "informed" and "stimulating." Those who accept such a justification as sufficient will surely admit, I think, that it is available to the sponsors of the present pamphlet.

Personally, this writer is pleased to see a forceful expression of a point of view which seems less and less expressed from the public forum. For it is not that the Keynesians have won the argument, but rather that they have been doing all the talking.

It would be very interesting to see a pamphlet put out attempting to justify the policies of the present federal administration, and relating them to the interest of a legal profession. It seems doubtful whether it would be as persuasive as the present pamphlet.

Another reason why the attorney should continue his study of such pamphlets as the present one, is that as the private practice of law becomes more and more entangled with public administration, the attorney will be required more and more to understand and argue not long accepted and applied principles of jurisprudence, but matters of public policy embracing every field of interest. He will be approaching problems which have no statutes and case books for reference, and even if they do, the authorities will express policies which have no permanent acceptance among men. It is evident the case-book law will not greatly aid his clients in such matters. Lacking the grace of "influence," the attorney is left to rely on the weapons of persuasion and embarrassment.

Andrew W. Green