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BOOK REVIEW

ADVOCACY AND THE KING'S ENGLISH, edited by Justice George Rossman. Bobbs-Merrill, 1960, xiv, 976 pages. Price: \$12.50.

There is an organization called Scribes, made up of members of the American Bar Association who want to emphasize the importance of language as the primary tool of advocacy. Under the editorship of a distinguished Associate Justice of the Oregon Supreme Court, Scribes has published this volume about language, advocacy and the lawyer's art. It is a great big book with a lot in it, running the gamut from that which lawyers know and don't need to be told through that which we know but need to be told to that which we don't know but well might.

The editor, who demonstrates his own mastery with words in a superb introduction, has chosen sixty-seven pieces (including a verse by Justice Story) by more than sixty individuals. Some are as short as five pages; one (Glanville Williams' "Language and the Law") is equal to a short book. Some are easy and pleasant to read, while others are worthwhile but hard going. Some are extremely valuable; others not nearly so. Some might well have been omitted or edited more strictly. The common thrust of the selections is toward securing a higher level of advocacy (whatever technical form it may take) by making practitioners more aware of the need for careful use of the principal tool of advocacy: the English language.

The articles included have been grouped according to the forum wherein language is to be used: trial briefs, trial appeals and non-adversary advocacy. All manner of legal craftsmen are represented: judge, trial lawyer, appellate advocate and legal scholar. There is one section about trials, which includes several "how-to-do-it" articles about particular types of cases and witnesses. (Oddly, every article in this group is drawn from the same source: Schweitzer's *Trial Guide*.) It would seem that the trial lawyer of limited experience could profitably chew some of this meat.

In the section devoted to appellate briefs and arguments, while this reviewer feels there would have been a gain from greater selectivity, within each subdivision of the topic there are some really good things, such as the late Justice Jackson's "Advocacy before the Supreme Court," Justice Rossman's "Appellate Practice and Advocacy," Justice Shaefer's "The Advocate as a Lawmaker," or Justice Von Moschzisker's discussion of what is now the Pennsylvania Supreme Court's Rule 35, requiring a concise statement of the questions for decision at the beginning of appellant's paper book. There

tends to be some repetition amongst the selections here, but withal there is a great quantity of valuable material, well worth the reading time.

The best part of the book is the last section on "The Use of English." Every one of the seventeen selections deserves to be reprinted, and they all belong together. There is little here of the merely "practical," even less of "how to do it." What there is is some of the most interesting and worthwhile writing about the advocate as a user of language and about advocacy as a legal instrument. Beyond that, there are discussions of the judicial process, law as literature and the ethics of advocacy. Not only do these have something to say, but they are superb examples of the best uses of our language.

Someone sometime said that an appellate judge convinces himself fifty-one per cent and writes as if he were one hundred per cent convinced. Whether anyone knows who deserves credit for the insight is doubtful. In this book it is credited by one writer to Cardozo (Page 253), another acclaims Brandeis (Page 203). Still another, himself a judge, uses the thought without credit to anyone, thus subtly taking the laurel for himself (Page 271). In one article, by a scholar who has himself written well regarded treatises, there is a reference to "Scott's *Trusts and Trustees*." If pointing these out sounds like nitpicking, the reviewer suggests that looking for them relieved the tedium of reading in a short time a collection meant to be savored over a much longer time.

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