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Brief-Writing and Advocacy, by Carroll G. Walter

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Brief-Writing and Advocacy. By Carroll G. Walter. New York: Baker, Voorhis & Co. 1931. 248 pages. Price \$5.00.

Brief-Writing and Advocacy is an attempted combination of a handbook on brief-writing with sage advice upon the subject, and is signally inadequate in both respects. A law school graduate who has not become familiar with most of the book's material before graduation might possibly read the volume to some advantage, but he would probably not be studious enough to do so; a graduate who has properly applied his time while in law school would be foolish to wade through it. Not that the book does not contain information to which every lawyer should have quick access. There are about one hundred pages of such information; but it is so interlarded with profuse elaborations upon the obvious that without an index, which the book does not have, the useful material is made practically inaccessible.

The fault lies in the attempt of Mr. Walter to make a reference work of facts into a literary composition. Much of his material has to do with nothing more than blunt unadorned facts—the names and dates of session laws and of compilations of statutes of various states; reports, official and unofficial, and how to cite them; digests, encyclopedias and text-books (why not periodicals?), and how to use them; forms for various parts of a brief. Such facts, well organized in an exhaustive reference book, would be of undoubted use. But *Brief-Writing and Advocacy* is neither well organized nor exhaustive.

The actual facts stated by the author are hidden away in a thicket of such truisms as: "Learning to handle his tools is just as essential to a brief-writer as it is to a carpenter;" or, "Statutes are an important part of our law;" or, "A thought well expressed counts for more than the same thought awkwardly or obscurely expressed." After two and a half pages devoted to

nothing but a list of citations, such as any writer of a brief might copy from a digest, the explanation appears that "A *v* or an *x* or an *o* alongside each citation can indicate whatever the investigator determines in his own mind he wants it to mean with respect to the value or the further use he will make of the case." One can always separate a sentence from its context and deprive it of significance, but the foregoing are typical of the work as a whole.

There are one or two conspicuous omissions in the book. No up-to-date work on brief-writing should fail to discuss the importance of the type of brief initiated by Louis D. Brandeis in *Muller v. Oregon*,¹ giving the background of a statute by citation of extra-legal material, when the constitutionality of the statute is attacked, in order to aid the court in determining whether the legislature has acted reasonably or unreasonably. Also, such a book should include some discussion of the use of statutory material from states other than the one in which trial is being held. This material is not authoritative, but there is an incipient tendency to use it in briefs on cases involving original questions or questions on which there is a conflict of authority, for the purpose of showing a general legislative course of action.

The last seventy-two of the two hundred and forty-eight pages of the volume are given over to excerpts from briefs of Charles E. Hughes and Benjamin N. Cardozo, and to an essay on Pennsylvania appellate practice by Chief Justice Von Moschzisker, available also in (1925), 34 *Yale Law Journal* 287.

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¹ 208 U. S. 412 (1907).