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Brief-Writing and Advocacy, by Carroll G. Walter

Daniel James

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it is now practiced, his book deserves the intelligent considera-
tion of committees on legal ethics and of all lawyers interested
in preventing their profession from deteriorating into a mere
accessory to the business world.

It should be added that Mr. Gisnet is a member of the New
York Bar, that he drew his material chiefly from New York
City practice, and that he did his writing in the shadow of the
investigation being conducted in that city by Samuel Seabury.
Sufficient facts were therefore at hand for this kind of truth
telling. Let us hope, however, that a consideration of the coun-
try as a whole, including the less metropolitan communities,
might have lent a little light to the dark picture.

An introduction for *A Lawyer Tells the Truth* was written
by Norman Thomas.

New York City.

DANIEL JAMES.

_Brief-Writing and Advocacy._ By Carroll G. Walter. New York:

_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 grad-
uate who has not become familiar with most of the book’s ma-
terial 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 in-
formation; 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 refer-
ence 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 Ad-
vocacy* 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.

Daniel James.

\(^{1}\) 208 U. S. 412 (1907).