

## BOOK REVIEWS

*The Technique of Advocacy*: By John H. Munkman, LL.B., of the Middle Temple and North-Eastern Circuit, Barrister-at-Law; pp. i-xiv, 1-173. London, Stevens & Sons Ltd. Australia, The Law Book Company of Australia Pty. Ltd. (£1/4/6 in Australia.)

The author of this book undertook what at first sight appears a formidable task, namely, to reduce to a systematic technique an art which appears to depend peculiarly upon the individuality of the performer and to be affected in its application by circumstances which the performer cannot control. Yet he has succeeded in good measure in extracting underlying principles and expounding them in a practical and useful manner.

To read his work is to realise that the materials for such a study have been available in abundance. The principal source is in the printed verbatim reports of trials, and biographical and autobiographical accounts of eminent advocates also furnish useful material. What have been needed to reduce the materials to order and evolve a technique in the author's sense are full and patient exploration, discrimination in selecting what may be educationally useful, and a capacity to draw out the general principles.

The result is not necessarily a technique which those whose forensic efforts are drawn upon consciously employed or would recognise. It is none the less a contribution to the knowledge of the subject, of particular value to beginners. This is especially so with respect to the interrogation of witnesses (and in particular their cross-examination), which occupies the greater portion of the work.

The author's exposition of "techniques" in this field has some analogy to the grammar of a language. It is possible to attain a certain proficiency in a language without formal study of its grammar. So, ability to cross-examine may be developed without awareness whether one is employing the technique of "confrontation", the technique of "probing", or the technique of "insinuation" (to use the author's terms). But some minds may do better, and advance more quickly, with the assistance of a grammar than without.

The topics covered include the general technique of interrogation, the fallacies of testimony, examination-in-chief, cross-examination considered in various aspects, re-examination, the formulation of arguments, speeches, and general strategy and tactics. Almost three-quarters of the work are devoted to interrogation, and of this about two-thirds are taken up with cross-examination. The exposition is clear and interesting and assisted by abundant subheadings. The illustrative material is well chosen. Dummy witnesses are not set up as targets to be destroyed by forensic bombardment, but the examples are carefully selected from the work of competent advocates as set out in verbatim reports. References are given throughout and an appendix contains a short list of books of special value. Running through a great part of the work is the exposition and illustration of the three major "techniques" of "confrontation", "probing", and "insinuation", whose analysis is the author's major contribution to the subject.

The limits of the work are indicated by its title and by its definition of advocacy as "the art of conducting cases in court, both by argument and by the

manner of bringing out the evidence, so as to convince the court or jury, as the case may be". The author appreciates that for the making of a competent advocate more is necessary than such a technique as is here expounded. There must be certain natural or developed qualities, some background knowledge, and practice in applying the technique. Within its limits the book should prove of considerable assistance to those to whom it is addressed, and the author's modest aim is chiefly to assist beginners in advocacy.

B. SUGERMAN \*

*The Principles of Agency*: By H. G. Hanbury, D.C.L., Vinerian Professor of English Law in the University of Oxford, etc.; pp. i-xviii, 1-231 and Index. London, Stevens & Sons Ltd.; Australia, The Law Book Co. of Australasia Pty. Ltd.; 1952. Price £1/14/6.

In the Preface to this entirely new work Dr. Hanbury gives as the reason for its publication that "there is room for a concise account of general principles [of agency] illustrated by references to the cases of the greatest importance." The truth of this statement cannot be doubted for, apart from standard works on the law of contracts which treat agency as a mere appendage, the only text book which makes any pretence of dealing comprehensively with the law of agency is Bowstead, now in its eleventh edition. Bowstead, however, is a digest and, as at least one reviewer has recently pointed out,<sup>1</sup> stands in need of substantial revision instead of mere re-editing.

In undertaking the task of writing a new work on the Principles of Agency, Dr. Hanbury has done a great service to law students and indeed to the legal profession generally: all the more so because both as a teacher of law and as a text writer he is no novice; his academic status bears witness to the former, whilst his contributions to legal periodicals and his *Modern Equity*, now in its fifth edition, are firm evidence of the latter.

All the foregoing considerations suggest that Dr. Hanbury's new book should be a contribution of the greatest utility and the highest quality. In many, and perhaps in most, respects it is; but there are some features of incompleteness and of arrangement which cannot fail to disappoint the more critical reader and therefore prevent the label of perfection from being applied to it.

Normally it is easy, on the score of incompleteness, to point to topics which have not been dealt with by an author of any new text book. Dr. Hanbury has, however, cast his net widely and in addition to discussing all the normal incidents of agency law has included chapters on "Agency in Tort and Crime" and "Agency in the Law of Evidence". Although some topics are really beyond the scope of a work on agency, one cannot help feeling that some of the discussion in these two chapters is so perfunctory that they would better have been omitted. This is particularly so in respect of the criminal liability of corporations occupying a single page and containing references only to *Monseil v London and North-Western Railway Co.*<sup>2</sup> and Mr. R. S. Welsh's article on "The Criminal Liability of Corporations."<sup>3</sup> In like manner the chapter on "Agency in the Law

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<sup>1</sup> A. W. R. Carrothers, (1952) 30 Can. Bar. Rev. 96.

<sup>2</sup> (1917) 2 K.B. 836.

<sup>3</sup> 62 L.Q.R. 345.