

BOOK REVIEWS

ADVOCACY IN OUR TIME, by Dr O. C. Mazengarb, C.B.E., Q.C., H.A., LL.D., Wellington: Sweet & Maxwell (N.Z.) Ltd. 1964. 266 and (index) 4 pp.

Throughout the history of litigation those who have aspired to become advocates have frequently bemoaned the lack of literature on the subject of advocacy. While it is undoubtedly true that advocacy, as such, cannot be successfully taught in a text book, let alone be made a subject for a written examination a pass in which would entitle a student to regard himself as an advocate, nevertheless it can, I think, be said that there should be more literature on the subject since it forms such an integral and vital part of our judicial system.

One therefore welcomes "Advocacy in our Time" by the late Dr O. C. Mazengarb, a work published after his death. Such a book written by a well-known advocate who practised in New Zealand will surely command wide attention in the legal profession and also probably with the many members of the public who retain a curiosity about the powers, rights, duties and ethics of the advocate. The volume contains fifteen chapters in all and covers all the main practical aspects of the advocate's work from receiving the preliminary instructions to the closing addresses. The text abounds with examples, many of which are taken from the author's own experiences in Court. Each chapter is divided into several sub-headings which are in turn high-lighted by the occasional important sentence printed in italics. This, together with the index, makes the book a volume of easy reference for any of the practical points of litigation that it covers.

It should be realised that this work "was at the stage of final preparation when Dr Mazengarb died" so that any comment made by way of criticism must be understood in the light of this, since it may have been that the author would have made certain alterations in the final text.

Be that as it may however, for those who have more than a nodding acquaintance with the subject there is much in the book that is trite and superfluous. In many parts the treatment of the subject is so elementary that even the law student or junior advocate will find his interest wanes. Examples of this may be found in matters treated under the following headings; The Cardinal Rules of Evidence, Proving Copies of Documents, Hearsay Evidence, Opinions, Evidence of Character or Conduct all of which are treated adequately in any of the standard texts on Evidence and Procedure.

It hardly seems necessary to discuss these basic rules to the extent that the author has done notwithstanding the useful hints which are sprinkled even throughout these passages. Occasionally too the style becomes a little pontifical although it always retains its lucidity. Some of the hints given appear to be questionable but perhaps it would be unfair to criticise these in view of the author's own career as a very successful advocate. The most one can say is that advocacy is a highly individualistic art and that accordingly some of the author's quoted words in Court, and especially the literary allusions used by him on

occasions would obviously not achieve the same effect if spoken by others.

"Advocacy in Our Time" makes no pretence at being a scholarly treatise, but is a volume of simple practical expositions and hints on the subject aimed clearly at beginners but written, as it is, by a former leading barrister in our own jurisdiction it should prove of interest to members of the profession and no doubt also to the public at large. However the book cannot be put higher than this and it is considered that most common law practitioners will find it disappointing. Despite the many good points it contains, "Advocacy in Our Time" does not really fulfill the expectations that either its title or its author would suggest and the profession still remain entitled to look for a further work on this important subject.

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WORKERS' COMPENSATION LAW IN NEW ZEALAND, by Ian B. Campbell, M.B.E., V.R.D., B.COM., F.C.I.S., A.R.A.N.Z., A.A.I.I., and D. P. Neazor, LL.B. Second edition, Wellington: Sweet & Maxwell (N.Z.) Ltd, 1964. xlii and 346pp (including index).

Any statement of the law relating to workers' compensation is made difficult by the multitude of cases on the subject, all turning on their own facts. An exhaustive analysis of legislative principle and case law would involve several volumes of repetition and fine distinctions. For this reason alone the joint authors of this compendious outline of New Zealand workers' compensation law have produced an extremely valuable work that must be one of the most useful volumes in a practitioner's library.

The format remains the same as that utilised in the first edition, with the relevant sections of legislation being fully set out and followed by comment and reference to the relevant cases. This type of layout has much to recommend it from a practical view-point, permitting easy reference to the particular part of the act concerned, especially as the section numbers are used as page headings. A number of alterations have been made, making the textual pattern more logical, and there is a heavier use of sub-division of subject-matter. The index is comprehensive and cross-referent making the task of ready categorisation a simple matter.

The book contains a noticeable and welcome trend towards citation of Australian decisions that hitherto has been missing. No fault can be found in any statement of principle set out and all relevant authorities, to the end of 1963, have been incorporated in the work. There is however, a tendency to overuse quotations from certain judgments and text-books, e.g. at p.24 *Lee v. Lee's Air Farming Ltd* [1961] N.Z.L.R.325, at p.64 *Lawrence v. George Matthews (1924) Ltd*, 21 B.W.C.C.345, and at p.21 the reference to Salmond On Torts, 13th ed. 114. This latter quotation is particularly unfortunate since it contains an extremely misleading reference to *Union S.S. Co of N.Z. Ltd v. Colville* [1960] N.Z.L.R.100. It seems a pity that the pattern of concise and accurate statement should be broken by lengthy citations of this nature that could have been equally easily summarised.