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BOOK REVIEWS

EFFECTIVE APPELLATE ADVOCACY. By Frederick Bernays Wiener.

Today as never before it has become necessary for every lawyer, in fulfilling his obligation to his client, to unravel that client's affairs from the snares of delay and confusion caused by the notorious enemy of individuality, "bigness." The duty of rendering top performance and acquiring the best possible result requires that the lawyer possess first the "know what," and second the "know how," in every arena in which he fights for his client's rights.

This "bigness" is manifesting itself to an ever-increasing degree in our appellate courts.1 The practitioner before them must be equipped to present his client's case with the maximum of clarity and persuasion in order to insure that the courts will be properly enlightened as to the strength and validity of the cause and cognizant of the true questions of law involved. It is not sufficient merely to know the rules of substantive law pertinent to each case and to have a solid grasp of the rules of procedure; it is vital to know how to utilize them effectively.

Until the publication of Effective Appellate Advocacy the practitioner was forced to gain the necessary "know how" through the painful method of trial and error. This book, in an extremely readable style sets forth both in general and in detail various guides and suggestions which if followed by the practitioner at the appellate level can lend inestimable assistance in earning for him the rewards of victory. The author, a member of the District of Columbia Bar, has served both as assistant to the solicitor general and as special lecturer at the Washington College of Law of American University.

The work is subdivided into four general parts. The first three of these, comprising 239 pages, discuss first the principles of appellate advocacy generally, and then deal specifically with effective brief-writing and effective oral argument. The fourth part contains copies of briefs and petitions for certiorari as well as transcripts of

1The Supreme Court of Florida handled 927 cases in 1950, by far the heaviest work load in the United States; see the address of Chief Justice Sebring, The Appellate System of Florida, delivered at the 1951 Convention of the Florida Bar and printed in 25 Fla. L.J. 141 (1951).

[416]
oral arguments before the Supreme Court of the United States.

Part I sets forth an analysis of certain important practices of both federal and state appellate courts, including the Supreme Court of Florida—practices of singular importance to the appellate advocate's quest for "know how" but not discoverable by reference to any set of rules. It deals with the actual mechanics used by these courts themselves in handling cases before and after argument. This information alone is worth many times the price of the book.

This treatise should be a working tool of every attorney practicing at the appellate level. For the novice or infrequent visitor to the courts of "last guess" it provides the benefit of the vast experience of a polished and successful advocate. For the seasoned campaigner it offers, at the very least, a basis for comparison of methods and a check list for future endeavors.

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George Sutherland was on the United States Supreme Court from 1922 through 1937, and was a more articulate, but less extreme, member of the most reactionary group ever to hold sway in the Court. His importance derives mainly from the fact that predominance of his views in the Court as then constituted led to the historic clash between it and the Roosevelt Administration.

Sutherland was an exceptionally able man of much erudition; even adversaries described him as "that first-rate lawyer and judicial craftsman." Before coming to the Court he had been an active Re-

2The chapter contains excerpts from a letter of July 28, 1948, by the Honorable Elwyn Thomas, then Chief Justice of the Florida Court, to Mr. Wiener stating that briefs are never read by the Florida justices prior to the argument (p. 15). A new system, instituted January 9, 1951, provides for preparation of a memorandum of each case by one of the research assistants; and prior to the argument this is placed in the hands of each justice sitting.

1MASON, BRANDeIS, A FREE MAN'S LiFE 545 (1946).