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Review of “Modern Jury Trials and Advocates. 5th Ed.,” By Joseph W. Donovan

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dantly able to protect his client's interests whenever litigation follows the traditional proceedings of these ancient and invaluable writs invented by sagacious lawyers of the middle ages and developed by the judges of the common law courts in England.

TYRRELL WILLIAMS.

MODERN JURY TRIALS AND ADVOCATES. By Judge Joseph W. Donovan. New York: G. A. Jennings Co., Inc. 1924. Fifth edition, enlarged, pp. 740.

This collection of items of advice to attorneys and illustrative selections, is probably intended, as part of the title page indicates, to aid attorneys-at-law in "the art of winning cases." The selections for the most part are examples of that type of oratory the aim of which is to get a verdict. This aim is repudiated in the section on "the duty of the advocate—the old question of the ethics of the profession"; but the tenor of the selections and the citation of the alleged humane maxim "better that ninety-nine guilty men should escape rather than one innocent man should suffer," p. 169, seem to laud only clever manipulation of the jury through forensic ability. The modern trend toward reform in the handling of criminal causes has awakened the bar and the public to the ill effects of appeals to the sympathies, passions, and prejudices of juries. It is to be feared that the bulk of the material in this book would appeal to the type of attorney who would not be in sympathy with such reforms; and this despite the high standard of ethics set forth on pp. 180 to 184. The author holds a brief for eloquence as a sine qua non in advocacy (p. 179 and the chapter on orators and oratory, pp. 1 to 9). The purpose of practically every selection, however, seems rather to hold up as an example to be studied the tricks of oratory, the clever citation from the Bible, the poets, and the classics, and the clever phrasing of situations arising out of the family, marital, or class relationships of the client, appealing to the sympathy rather than to the sense of the jury. The language and methods employed in the selections may have been adapted to "winning cases" by the forensic advocates of a passing period and some survivors illustrated by selections from the Haywood and Leopold-Loeb cases. It is believed, however, that their use has given the public a false impression of the attorneys function and encouraged a belief that

a mastery of such tricks of the trade is the mark of a successful member of the bar.

Such addresses as "Address at Michigan Law University, Ann Arbor, March, 1873," and "From Judge C. J. Walker's Ann Arbor University Address, 1869," are reminiscent of the early inaccurate designation of the University of Michigan Law School. The American Bar looks forward to the time, and it is at hand, when the types of forensic appeal, perpetuated in this collection, will all be reminiscences only.

CHARLES E. CULLEN.

THE LAW:—BUSINESS OR PROFESSION. By Julius Henry Cohen of the New York Bar. New York. G. H. Jennings Co., Inc. 1924.

Mr. Cohen's book "The Law:—Business or Profession" has as its main topic legal ethics and as its main theme the failure of some lawyers to come up to the ethical standards of their profession. As an introduction to this main thesis the author gives an interesting and enlightening survey of the varied position of the lawyer in countries throughout the world. This position varies from that in China, where (until the last few years) to practice law, in one sense of the word, was considered a criminal interference between the aggrieved citizen and the courts,—to that in European countries where the lawyer is considered an officer of the court bound by oath to aid that court in arriving at a just decision.

Since in our country also a lawyer is an officer of the court, high standards are necessary. Mr. Cohen points out that business is daily becoming more like a profession, that the old methods under which "railroad presidents . . . had no law of either state or nation to bother them, and could be both the law and profits unto themselves" are passing, and that the business man is building up an ethical code. Well then, should not the lawyer also strain to build up and then uphold professional standards? Certainly yes, is the author's answer. He does not attempt to conceal the faults of the profession. They are many, blatant, and this is no time for concealment, but rather for revelation and correction. However is he not despondent. According to Mr. Cohen, American lawyers have seen the stain upon their professional honor and are doing much through their Bar Associations to remove that stain. The American Bar Association through the local organizations, and through committees are doing much to clarify ethics