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The Art of Trial

Robert B. White, QC

Aurora: Canada Law Book Inc., 1993, 230 pp.

Reviewed by Duaine W. Simms[†]

Want to be a successful lawyer? While a good knowledge of the substantive law is necessary, it is far from sufficient. Procedural knowledge is also a prerequisite. Knowing how to conduct your case effectively in and out of the courtroom is required for success. As the author admits, this book is not a definitive source on the proper method of litigating; however, it certainly does offer some assistance as one strives to master the art of trial.

This book was written to instruct the reader on how to handle various components of the trial process. It differentiates itself from other works on this subject through its format. While other books about trial procedure follow a traditional structure in which preparation is the first chapter followed by opening statements and so on, White has chosen to avoid this arrangement. This book encompasses not only the areas of proof, evidence, preparation, opening and closing statements, and questioning and cross-examining witnesses, but also what one should expect from trial work and the contrasts between civil and criminal proceedings. This book has been written in such a manner that one need only read the areas of interest; each section is distinct and separate. It is not necessary for the reader to survey the entire text to benefit from it. The author's intention was to create a reference guide that could be referred to when necessary. He has certainly achieved this goal.

Books on procedure can become quite technical. White has tried to avoid this. The text is filled with samples of trial elements, references to common items to illustrate litigation procedures, and a variety of strategies and diagrams. White has chosen to teach trial techniques through example, explanation, and procedural

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checklists. A highlight of this text is the sample of transcripts from the Nuremberg trials to compare and contrast cross-examination techniques of different qualities. In addition, White uses the notion of pyramids to explain how case preparation should develop and the idea behind the *Porsche* design to demonstrate that the form of your cross-examination should follow its function. He also includes lists, charts, and algorithms that enable one to tackle and handle various aspects of trial practice.

While some knowledge of the law may be required to understand or benefit from this book, one need not be a legal genius. This text is designed to benefit lawyers fresh from the bar as well as those with years of experience. In fact, even a law student would gain something from reading this material. White's comments not only would assist a seasoned litigator to smooth out the rough spots in his or her trial methods, but they would also give the rookie lawyer a head start in preparing for a successful future in litigation.

One criticism that might be made about this book is the misconception that the author creates in the preface when he suggests that each chapter is separate and individual. While the sections of material covered are brief, they do extend beyond the confines of individual chapters. To gain full benefit from White's advice, it is necessary to concentrate on all of the chapters discussing a specific topic.

Robert White has taken his years of experience as a litigator presenting cases before the provincial and federal courts as well as the Supreme Court and deposited this knowledge onto the pages of this book. He has taken the complex task of advocacy and has broken it down into its basic elements. He has simplified the litigation process and has explained what to do and what not to do and what to expect during the trial process. It would be difficult to walk away from reading this book without benefiting in some way. Every lawyer and would-be litigator should peruse this book and make it a valuable addition to his or her library.