or any act, omission, condition, status or circumstance.' "[16] The same stroke of boldness reveals itself in connection with the case of *U.S. v. Fortaleza*,[17] in conformity with the doctrine enunciated there, Justice Moran[18] and Sen. Francisco[19] are both agreed that an "order" or "request" made by an agent of authority is an essential condition before a private person can come to the aid of such agent of authority while the latter is making an arrest; but Dr. Padilla comments that an "order" or "request" is not necessary[20] because it is not required by Law.[21] Just for good measure, let us take a look at one more bold opinion. A municipal president cannot be found guilty of "illegal and arbitrary detention" when he makes an arrest without a warrant, because he has all the powers of a police officer if the crime was committed in his presence.[22] Justice Moran[23] and Sen. Francisco[24] again share the same opinion, but again, Dr. Padilla thinks differntly; to him, "authority to arrest should not be confused with the legal obligation to surrender or to deliver the arrested person to the proper authority."[25]

One last consideration. This book is a thorough revision of the author's mimeographed work on the same subject, and has the edge of completeness—in comments and citations — over the previous one. Incorporated now in the appendix are General Orders No. 58, and the Revised Bail Bond Guide. To facilitate research, the cases have been alphabetically tabulated, and the subject-matter properly indexed.

As the reader may have gathered, the reviewer thinks this is an excellent piece of work. It is.

THE ART OF ADVOCACY. By Lloyd Paul Stryker.[1] New York: Simon and Schuster, 1954. Pp. xiii, 306. ₱13.00.

There are according to a twentieth-century legal wizard named Louis Nizer, two main types of prominent attorneys: one is the scholar and brief-writer; the other is the trial advocate, whose skill lies in persuading the judge or the jury. "Rarely are these two types combined in one man," added this counsel whose legal parries are worth $1,000 an hour, "but when they are, the combination is irresistible___ there is no surer access to clients and fame." He also said that there are very few in America today who possess the combination, probably no more than four or five.[2]

What he did not say is that many are not even capable of top-notch performance at one or the other. Take brief-writing, for instance. While it is true that "lawyers are students of language by profession,"[3] it is equally true that quite a number have succeeded in studying all but intelligible English.[4] And with respect to trial advocacy, as Judge Medina laments, that noble art has suffered a decline;[5] Judge Jerome Frank likewise despair: our "leading schools graduate most of their students with but the foggiest notions of what occurs in nisi prius courts."[6]

Luckily, however, the more successful among the brotherhood of the Bar have refused to leave the less fortunate to their fates. Mr. Lloyd Paul Stryker, for one, has refused to let advocacy toboggan down the slopes of neglect and disreputee. His contribution: *The Art of Advocacy*.

As aptly stated by its subtitle, the presiding theme of this book is — *A Plea for the Renaissance of the Trial Lawyer*. The "present low estate" to which advocacy has sunk has compelled the author to plead with his brethren the world over, and to show what can be done, to restore it to the "art" that it is. In corroboration, Judge Medina also encourages the cultivation of this difficult art, if only for "the pecuniary returns which inevitably come to trial lawyers of reputation and renown."[7]

Referring to the excitement that seethes in the cauldron of the courts, Clarence Darrow once remarked: "Everyone knows that the best portrayals of life are tame and sickly when matched with the realities."[8] And the reader cannot help but chuckle, "How true," after he has dabbled over the first few pages of Mr. Stryker's reenactment of actual courtroom battles. The first part reads as grippingly as a novel, even for the layman. There, the reader undergoes a rich adventure. With superlative skill and style, Mr. Stryker affords you an insight into the inner man of the advocate when he is at work at feverpitch. Making lavish use of graphic illustrations from his own experiences as well as from history's famous trials, he takes you

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[16] At 31. See also art. 353 REVISED PENAL CODE.
[17] 12 Phil. 472 (1909).
[18] 2 MORAN, *op. cit. supra* note 15, at 709.
[19] 1 FRANCISCO, *op. cit. supra* note 16, at 50.
[20] At 243.
[21] Art. 149 REVISED PENAL CODE, see not 22.
[22] U.S. v. Vicentillo, 19 Phil. 118 (1911).
[23] 2 MORAN, *op. cit. supra* note 15, at 701.
[24] 1 FRANCISCO, *op. cit. supra* note 16, at 34.
[25] At 227.

[1] Lloyd Paul Stryker is reported to be the archtype of a vanishing breed: the great trial lawyer. "As the victor in ninety-seven per cent of the several hundred cases he tried when he was general counsel for the New York State Medical Society, as a man whose clients have included judges, district attorneys, political leaders, prominent figures in the world of government, business and society, as a man who has represented people in all walks of life (and whose career has attracted nation-wide and even international attention), as one of New York's and the nation's top-flight lawyers — Mr. Stryker should know." *Publisher's Note* at 285.

[2] Esquire, Jan., 1955, p. 77.
[3] PHILBRICK, LANGUAGE AND THE LAW p. v (1949).
[4] Gerhart, *Improving Our Legal Writing: Maxims From the Masters* in 40 A.B.A.J. 1057 (1954).
[5] At p. ix.
[6] CUTLER, SUCCESSFUL TRIAL TACTICS p. v (1950).
[7] At p. x.
[8] Darrow, *Attorney for the Defense in* BEST OF THE BEDSIDE ESQUIRE 236 (Gingrich ed. 1954).

with him step by step through all the stages in the metamorphosis of a case — from the moment "A New Case Arives" till the lawyer is "In Court At Last." He makes you gulp as he utters the first word in "The Opening Address," and lets you feel the quiver of his rapier as he performs the "Cross-Examination" — that "Bulwark of Liberty" and "Incomparable Art." And as he goes through "The Closing Speech," you also feel the same savage tom-tom pounding under every lawyer's chest, when he stands at the brink of triumph or disaster.

As regards the preparation of the case, Mr. Stryker lays accent on "the facts." "Would that there were some way," he says, "over and beyond italics with which I might stress, might shout aloud that word: *facts*!"[9] The capacity to ferret them out, echoes Judge Medina, "is the most important talent which a modern trial lawyer can possess."[10] To gather all the facts, unflagging efforts must be exerted. "Unlimited and never-ending talks with the client himself" must be made, for you can never tell; perhaps on the very eve of trial, he might "drop a comment that throws a new light on the whole case."[11]

In the second part of the book, the author discusses first the indispensable tool of "language," for "What will it profit you to know all the law and the prophets if you lack the power to make these clear to others?"[12] And not to be forgotten, he says, is the vital role that "character" plays, for what good will your arguments do if the court does not believe you? In the course of his discussion, he cites maxims from the Masters to buttress his principles. And after the theme of language, he delineates some portraits of such great lawyers as Martin Littleton, Abraham Lincoln, Cicero, Rufus Choate, Daniel Webster, Robert Jackson, and several others.

In Part Three, he deals first with the crying need of topflight advocacy in criminal cases, particularly to offset both the today fashionable trial by newspapers, and that huge imponderable called "public opinion." Then he cites the story of Bertram Campbell as a clear case of a miscarriage of justice. Next he dwells on advocacy in that place "where we file our arguments in writing, and deliver our briefs orally"[13]: the appellate courts. In connection with appellate advocacy, he discusses to some length the "Ten Precepts"[14] given by the beloved leader of the American Bar, John W. Davis. And then the author devotes a chapter to an impassioned "Plea

[9] At 8.
[10] At p. xi.
[11] At 13.
[12] At 140.
[13] At 230.
[14] The Precepts are the following: (1) change places, in your imagination of course, with the court, (2) state the nature of the case and briefly its prior history, (3) state the facts, (4) state next the applicable rules of law on which you rely, (5) always go for the jugular vein, (6) rejoice when the court asks questions, (7) read sparingly and only from necessity, (8) avoid personalities, (9) know your record from cover to cover, and (10) sit down. At 241-49.

for a Divided Bar," that is, administration of justice British-style (the conduct of trial work to be confined to the barristers; the preparation of cases, to the solicitors). Finally, he climaxes this exciting book with a compelling chapter on "The Ethics of Advocacy," reminding the legal profession that "the arms which an advocate wields," he must always use as a warrior, never as an assassin.[15]

Now, for some asides. As Judge Medina pointed out in his "Introduction," glaringly missing is a treatment on *defeat* as a means of progress. Everyone's path is littered with "ups and downs." *C'est la vie.* But not infrequently, a practioner cannot seem to rise up again after he gets knocked out by one of those "downs." He does not realize that, as a successful trial tactician puts it:

> " . . . the good lawyer has a way of springing back with courage renewed and the resolve to learn and benefit from the mistakes of the trial just ingloriously completed. Fortunately, the next case is waiting, and here is the golden opportunity to prove to himself and the bar that he is still good. Instead of indulging in vain regrets, when the morning comes, the sun is still shining again and the lawyer walks out to engage in the next battle, exactly as though the case he has just lost had never been tried.
>
> "Yesterday never was, tomorrow may never come, today we have a case to try."[16]

The views of Mr. Stryker on the matter would have been most enlightening.

But all in all, *The Art of Advocacy* is one book that merits every lawyer's time, no matter how busy he may be. So read it — if not as an eye-opener, then as a reminder; if not for instruction, then for inspiration. But read it.

[15] At 283-84.
[16] CUTLER, *op. cit. supra note* 7, at 273