

practices of the time which sanctioned or tolerated most, if not all, of the acts which the government charged against the defendants as crimes."

Aided by the logic of a chronological presentation, the book achieves a strong climax in the now-famous Alger Hiss Case. Young and brilliant Alger Hiss was *magna cum laude*, Harvard Law School, a ranking State Department official, Yalta Conference Presidential Adviser, and Secretary-General of the San Francisco Conference of the United Nations Organization. Hiss was tried and convicted for the crime of perjury. Later he was also found guilty of espionage for being a Communist agent. The conviction of Hiss was brought about chiefly by the firm, unwavering and almost impregnable testimony of only one witness, David Whittaker Chambers. The book's account of the assiduous and desperate attempts of the defense to break and impeach the testimony of Chambers (to no avail) marks the high water-point of interest in this trial.

In its final analysis this book is more than a mere narration of the perpetration of heinous crimes or even an appraisal of the motives of men for the commission of wrong. Above any other intendment, it is a fit tribute to the counsels of both the prosecution and the defense for the untiring effort and energy with which they espoused their respective causes: qualities indispensably necessary in order to give an accused his full measure of due process under the law. Truly, as the author put it, the book is dedicated to "The ideals in the administration of Criminal Justice: A verdict courageously reached by a jury after a conscientious consideration of the law and evidence."

ON THE WITNESS STAND. By Hugo Munsterberg. Clark Boardman Company, Ltd. 265 pages. P13.00.

The accused has just been hanged for a crime of which he was no more guilty than the next man in the street. The court presumably did its utmost to arrive at the true facts and to carefully weigh the evidence. The evidence upon which the accused was sent to the gallows may have consisted merely of the uncontradicted testimony of a sole eye-witness to the

crime. The only important question therefore before the court and the prosecution was whether that lone witness had told the truth as to the facts testified to by him at the trial.

It is precisely in this respect that this book of Professor Munsterberg, wherein he applies experimental psychology to the administration of justice, is of tremendous aid to the legal mind. The author advances the proposition that the mental processes of perception and memory, of attention, thought and will play so important a role in court procedure that to reject or ignore the findings of those who devote their work to the study of these mental functions would amount to folly.

A witness on the stand is simply an ordinary man susceptible to being misled by illusions in the apprehension of facts; his recollection of the case may be tricked by the clever and expert suggestions of an adverse counsel; or he may be simply swayed by his own emotions. Witnesses testify to the peculiar taste of a poisoned substance; probably there is no one in the jury-box who knows enough about physiological psychology to be aware of the fact that the same substance may taste quite differently on other tongues. Parties to a civil suit testify with respect to the size, length and form of a parcel of land as it appeared to them at a given distance; yet there may be no one to remind the court that at the same distance the lot might appear to be of different proportions under varied conditions. The witness may be utterly certain that he felt something *wet*, and yet, if the truth were known, he only felt a smooth, cold metal. Today the findings of sense psychology can help clear up the confusion which prevails in the observation of witnesses as well as in the appraisal of their testimony.

It is true that the oath taken by a witness tends to prevent deliberate lying. The witness thereby knows he is solemnly duty-bound to reproduce "the truth, the whole truth and nothing but the truth," under pain of being prosecuted for perjury. Thus the witness tells the truth, but it is the truth according to his own perception. The psychologist then is fundamentally concerned with the question of whether the perception of a particular witness *conforms squarely* with the actual fact in dispute.

The author illustrates the foregoing point in the following manner: The word *dog* may call to mind the picture of a particular dog, or the *name* of a dog; it may bring forth the image of a house wherein there is a dog. It may also create

the superordinated idea of *animal*, or the subordinated idea of *terrier*, and perhaps even the coordinated idea of *cat*. There is therefore no end to the possible number of images and ideas which one word can generate in the mind. Each time, a dog is thought of, but always under different aspects.

In the courtroom the suspected man, while asserting that he does not know the accused, nonetheless turns pale when confronted by the latter. He may break down and weep upon hearing the narration of his crime which previously he disavowed.

Because of the importance and helpfulness of Psychology, the judge, lawyer and law-student should learn "to psychologize your witness." Professor Munsterberg's book is one fine source of learning how to do so. Formerly a professor of Psychology at Harvard University, the author shows how effectively the principles of psychology can be applied to problems that crop up on the witness stand.

To the trial lawyer this book should form an important and essential adjunct of the equipment of every investigator and trier of fact.

1954 BAR EXAMINATION QUESTIONS

CIVIL LAW

I. (a) Define a holographic will. (b) Does it require at-testing witnesses and acknowledgment before a notary public?

II. After John and Mary were divorced, their minor son, George, remained in Mary's custody as John subsequently married again. Later, Paul married Mary and had a daughter by her. With Mary's consent, Paul seeks to adopt George. Can he legally do it? Reasons.

III. State briefly the reasons why contracts of sale with right of repurchase are not favored.

IV. X, instituted heir in his aunt's will, died intestate 2 months after the death of the testatrix, leaving no relatives except his legitimate brothers A and B. May A and B successfully claim the legacy of X notwithstanding the legal provision that the right of representation only exists in favor of children of brothers or sisters, which A and B are not? Reason out your answer.

V. (a) Define prescription as a mode of acquiring dominion and other real rights. (b) Differentiate between ordinary and extraordinary acquisitive prescriptions over immovable property. (c) State whether the provisions of the Code of Civil Procedure (Act 190) regarding acquisitive prescription as to real property are still in force or not. Reasons.

VI. (a) What is property of the conjugal partnership? (b) Is the money received by the husband as repurchase price of a land sold to him *a retro* before marriage a conjugal partnership property? Why?

VII. (a) What are called natural children by legal fiction? (b) State their status, rights and obligations. (c) What new rights are accorded by the Civil Code to illegitimate children other than natural aside from the right to support?

VIII. (a) Define nuisance. (b) Is a swimming pool main-