

aspect of the proceedings, the author subsequently passes upon the constitution of the courts and the character of the men presiding over them. Finally, he terminates his findings with an imposing list of seventeen "Reversible Errors," briefly discussing each with accompanying citations of authorities.

The following are some of the "errors" found by the author:

No judicial process could take place on the Sabbath or on other Jewish feast days.

Caiaphas, the religious High Priest acting in the capacity of a Judge, erred in seeking words from the mouth of Our Lord upon which to convict Him, without first establishing a *prima facie* case based on the testimony of other witnesses.

The trial was held in the palace of Caiaphas; it was therefore not the proper meeting place of the *Sanhedrin*.

After having publicly declared that Christ deserved to die, Caiaphas should not have acted as Judge in Our Lord's trial.

It was error on the part of Caiaphas to leave Our Lord unguarded and thus subject Him to the unrestrained jeers and buffets of the mob gathered in the gallery of the palace.

The *Sanhedrin* had no jurisdiction over capital cases such as was that of Our Lord's; it had been divested of that jurisdiction by the Romans some forty years before.

Our Lord was not afforded the right to counsel.

It was error to require Him to testify as a witness against Himself.

Roman Law required trials to be public; however the trials before Annas and Caiaphas were held behind closed doors.

Pilate, having announced that Our Lord was not guilty, permitted his decision to be nullified and superseded by that of the mob.

*The Trial of Christ from a Legal and Scriptural Viewpoint* is written in a clear and scholarly style, and poses to the student of law some challenging legal questions in criminal procedure. Though the subject is approached from a legalistic angle, the layman will nonetheless find it sufficiently readable. The book further demonstrates that the author has both a legal and scriptural grasp of the varied aspects of the trials of Our Lord. This is readily borne out by the fact that Mr. Breed is an attorney in the city of St. Louis, and a direct descendant of a great American theologian.

**GUILTY OR NOT GUILTY.** By Francis X. Busch. *Bobbs-Merrill Company, Inc.* 287 pages. Distributed by Alemar's. P9.10.

On reading *Guilty Or Not Guilty*, the reader is ushered into a typical American courtroom to witness four great and notable American trials of the last half-century. Based upon the stenographic records as well as the printed appeal of each particular case, the accounts of these four trials are dramatically, factually and sometimes powerfully portrayed by the author; they generate an insatiable interest in the reader.

The first trial was the Leo Frank Case. In 1913 Leo Frank, a Negro from the State of Georgia, was tried, found guilty of and convicted for murder. The death sentence was consequently imposed, but on review the same was commuted to life imprisonment by the United States Supreme Court. The Negro-hating South, indignant over the commutation of sentence, blamed Northern propaganda for the lowered penalty. As a result the South decided to take the law into its hands. Leo Frank was forcibly and brutally taken from the state penitentiary by a blood-thirsty mob and lynched. After Frank's death, Mark Sullivan, writing his "Our Times," made unmistakable reference to the causes that erupted into the Civil War between the states: "The case fanned into a new flame the old animosities of the North and South of fifty years before."

Lawyers as well as law students should find the second trial of peculiar legal interest. D. C. Stephenson criminally assaulted a woman; the victim later became mentally deranged and took a dose of poison to end her life. Because it believed that there was a causal connection between the assault and the consequent suicide, the court found Stephenson guilty of murder.

Students of criminal law and criminal lawyers may well ask themselves whether the assault was the probable and natural cause of the suicide, thereby justifying a conviction for murder.

The Samuel Insull Case is the third trial related in this book. The author however considers the case more significant than dramatic: "The significance of the Insull case, as one of the *causes celebres* of the last half a century, lies not so much in its particular facts as in its revelation of the commercial

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."

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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