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The Lost Art of Cross-Examination by Jacob W. Ehrlich

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THE LOST ART OF CROSS-EXAMINATION. By Jacob W. Ehrlich. New York, Putnam, 1970. Pp. 192. \$5.95.

Jake Ehrlich, in a well written text, demonstrates the lost art of cross-examination by pointing out exactly why it was never found. He implies, as is true, that the skillful and most successful cross-examiner is one that is born not made.

The first three-quarters of the book he devotes to a text dissertation on the do's and don'ts of cross-examination. Summed up, however, he admonishes that you shall never cross-examine a hostile witness unless (1) you have a particular point which you believe that you can make by obtaining favorable answers from the witness, or (2) where the witness has already hurt your case so badly that no further damage can be done by going over his story again. In either event he cautions that a mere repetition of direct, serves only to re-emphasize the witness's testimony, often to the detriment of the examiner.

The second one-quarter of the book is truly interesting in that it details factual situations and actual cases in which the counselor has participated. He also demonstrates the skip technique, which is the one most successfully employed by the skillful examiner. By the skip technique, he means that the examiner goes from point to point and back again so as to throw the witness off the track as to what the next question may be. The purpose, of course, is not to necessarily confuse the witness but to get to the truth.

Mr. Ehrlich, who was the subject of a recent T.V. series, subscribes to the theory that cross-examination should be deliberate, patient, exhaustive, and conducted while watching the witness. He, however, points out the real problem to be faced by the trial practitioner when he says, "Every trial lawyer has his own style, his own thoughts, and his own purpose." This is so true, as has been demonstrated by other great examiners of our time, such as Percy Forman, who uses

(Footnote continued from preceding page)

1963-67. Miss Peden presently maintains Industrial Consultant Services in Louisville and Hopkinsville, Kentucky, and is president of Housing Systems, Inc., Louisville, a modular housing manufacturer. She was named by President Johnson to the 11-member National Advisory Commission on Civil Disorders in July, 1967. In 1961-62, she was National President of the 180,000 member Business and Professional Women's Federation of the United States and a committee member of the late President Kennedy's Commission on the Status of Women. Currently, Miss Peden serves as a member of the Executive Committee of the National Democratic Party's Reform Commission; a Trustee of the Foundation to Improve Television; and the Board of Directors of American Bureau for Medical Air to Nationalist China. She holds memberships in the American, Southern, and Kentucky Industrial Development Councils. In 1968 Miss Peden became Kentucky's first woman nominee for the U.S. Senate.

the rapid-fire technique, and Melvin Belli, who uses the sweet-and-sour approach.

While I would recommend this book for the young lawyer or the law student, it really is a rehash of a much earlier work by Francis X. Wellman called, *The Art of Cross-Examination*.

A reading of both books will prove helpful and beneficial to the young practitioner and will prove interesting reading for those who have their own theories. The latter group will particularly enjoy the histories and examinations of actual cases which are contained in these books.

*Harry Miller**

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