

Modern Criminal Procedure (Book Review)

J. Walter McKenna

Follow this and additional works at: <https://scholarship.law.stjohns.edu/lawreview>

Recommended Citation

McKenna, J. Walter (1959) "Modern Criminal Procedure (Book Review)," *St. John's Law Review*: Vol. 34 : No. 1 , Article 26.
Available at: <https://scholarship.law.stjohns.edu/lawreview/vol34/iss1/26>

This Book Review is brought to you for free and open access by the Journals at St. John's Law Scholarship Repository. It has been accepted for inclusion in St. John's Law Review by an authorized editor of St. John's Law Scholarship Repository. For more information, please contact lasalar@stjohns.edu.

MODERN CRIMINAL PROCEDURE. By Roy Moreland. Indianapolis: The Bobbs-Merrill Co., Inc., 1959. Pp. 366.

Although Professor Moreland's book on Modern Criminal Procedure is not for the student of the technicalities of criminal law procedure, yet, it serves a most useful purpose in a field noted for its dearth of written material.

In its 366 pages will be found a number of provocative suggestions to cure what the author believes to be some of the ills of our modern-day method of handling criminal cases. The writing style is fresh and vigorous, together with a clarity which aids the reader in understanding problems which might be difficult to grasp in the hands of a less skillful writer.

The format of Professor Moreland's book is rather unusual with its divisions into matters pertaining to arrest, methods of obtaining evidence, proceedings prior to trial, trial and appeal, sentencing power and practices of courts. While a reviewer would like to discuss each of these divisions with a critical pen, the necessity for brevity for this review will permit observations only on certain chapters which especially aroused his interest.

It seems to this reviewer that the author, in Chapter IV, should have been far more vigorous in attacking the growing habit of police officers in stopping citizens on the street simply to interrogate but not arrest. And, in some cases, what is worse, to force them to go to police stations for detention and questioning. With his views concerning the value of the adoption of the Uniform Arrest Act to permit police to question citizens within limits, the reviewer is in agreement. However, this chapter would have been the place for Professor Moreland to express his opinion concerning other illegal police practices such as the use of the dragnet, wholesale rounding up of known past sex offenders and similar police practices.

Perhaps due to the fact that the reviewer considers the preliminary examination step so important as a part of due process of a criminal prosecution he was sharply disappointed with Professor Moreland's rather scant treatment of this pre-trial proceeding in Chapter X. A more detailed statement of what he terms "several well-accepted principles as to the preliminary examinations . . ." would have been helpful to the uninformed reader. The accepted view of many trial lawyers never to waive the preliminary examination because of its value in furnishing cross-examination material for the future trial was not mentioned as one of the benefits of the preliminary examination.

In Chapter XIV, dealing with the Grand Jury, there appears an excellent treatment of the advantages and disadvantages of the use of the Grand Jury system as opposed to prosecution by the information method. While the usual reasons given by authorities to support the necessity of secrecy for grand jury proceedings failed to be "wholly persuasive" to Professor Moreland, it must be stated that

this reviewer was not wholly persuaded by his criticisms of these reasons.

One other chapter entitled Reform of Sentencing Procedures should be specifically mentioned in this book review. The problem of sentencing procedures cannot be overestimated in importance. Improper procedures have caused disrespect for the courts and riots in prisons. While the substantive criminal law can be objective in its statement of principles, that part of criminal procedure which deals with the disposition of the convicted person must switch from objective standards to individualization of justice. Such appears to be modern thinking. The author has examined this problem in a most satisfactory way in this chapter.

Other chapters in this book deal amply with such subjects as Search and Seizure, the Right to Bail, Right of Appeal by the State and related matters.

Professor Moreland has written other articles and books in the fields of criminal law and criminal procedure. They, like the book under review, deserve praise for reaching high scholarly standards.

J. WALTER MCKENNA.*

* Professor of Law, St. John's University School of Law.