



1959

## Courtroom Know-How by Joe H. Cerny

Melvin M. Belli

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# Book Reviews

COURTROOM KNOW-HOW. By Joe H. Cerny. "Observations by a Court Reporter," The W. H. Anderson Company, Cincinnati, 326 pp.

One of the most important functionaries in the modern courtroom, and at the same time the most self-effacing and least noticed, is Mr. Courtroom Reporter. With the promise of machines to do our thinking and recording instruments to report our talking, he, in the not too distant future, may be as obsolete as the quill pen, but in the meantime, the trial lawyer, as well as the trial judge, and later on, the appellate judge, has come to regard his quiet scratchings or his silent stenotyping as indispensable to the modern trial.

If ever the machine age should catch up and replace the courtroom reporter, Joe Cerny, in his delightful book, "Courtroom Know-How," gives indication of what other reporters might do for livelihood: write a book of their memoirs.

Television and screen search for "new material." It's present in volumes upon volumes in the files of every court reporter. As one of the most important men in the courtroom, he is also *the* most factual observer. The judge is supposed to be impartial, but eventually, his very act of judging destroys his impartiality. But the reporter, is as implacable as the stone tablet, and he doesn't even change a word or bad grammar.

Earl Welch, Chief Justice of the Supreme Court of Oklahoma, introduces Mr. Cerny's book, and his opinion that the book is "highly informative for lawyers, as well as delightfully entertaining" will be concurred in by every reader.

But "Courtroom Know-How" is more than delightfully entertaining; it is specifically suggestive to the new, as well as the veteran trial lawyer. "Little things" often turn a lawsuit and this book is chuck full of "little" suggestions. It's the "how to win friends and influence people"—in the jury box—for lawyers as well as laymen.

The court reporter has seen new lawyers develop into veterans. He has seen what has made them good or bad lawyers. He has observed different styles. He has observed different *modus operandi*, as well as different receptions by different juries of the same *modus operandi*. He has heard every new and old "lawyer's joke," but what's more important, he has seen the impression that it has made on not one but one hundred juries.

The court reporter has seen human nature on the witness stand, in the jury box, on the bench, and at the bar. Most trial lawyers value the reporter's opinion as to how a case is going, above everyone else's. Most court reporters while working on a case are reluctant to give it because they are so impartial. But now, Cerny "tells all" and the "all" is excellent advice to lawyers of this, as well as the older generation.

The court reporter has a vocabulary and an appreciation of courtroom language, as well as courtroom manners. He, above everyone else, can give "pointers" on "how to behave" in court. Cerny does this, not only instructively for the lawyer, but interestingly for the laymen who look in on the makings of a trial—and a trial lawyer.

The book should be read cover to cover, at leisure, although the publishers' excellent index makes the book even valuable as a specific research tool. It's a storehouse of memory and method. Its value lies in its variety of subject matter, not its consistency or sequence of topic.

Take the suggestion in the chapter "Argument to Jury": "Don't hold too tightly to a selfish thought such as: 'How can I manage to win this case of mine?' Rather keep thinking to yourself, 'How can I assist the jurors (or this judge) to envision justice here as I sincerely view it?' (See the psychological difference?)" This is a good, practical suggestion. I know. I have tried it.

Here's another: "Admit a weakness *first*: Whenever on your side of the case there clearly are any weaknesses such as gaps in your proof, or ungentlemanly conduct of your client or witness, don't try to cover them or gloss them over. If you freely confess the obvious weakness or lack before launching into your argument, then, on the remaining things that you do assert positively, you will sound authoritative and hence fully believable. On the other hand, if you first state your strong points with all your forensic ability, and afterward hesitatingly make any forced admission against your side of the case, you will be ending on weakness instead of strength."

In the chapter, "Pointers on Juries," we find "fascinating study": "The study of the jury mind is one subject from which we never graduate. 'Jury' has half-jokingly been defined as 'A group of twelve persons who decide which side they think has the better lawyer.' Actually, this definition isn't far from wrong if we add these qualifying words: 'From the standpoint of counsel's considerateness toward the jurors themselves.'"

"Really, the longer you observe jurors, the more intrigued you will become and the more surprises you will see. You may get so you will habitually try to visualize and anticipate 'unexpected' verdicts, particularly in trials in which you are not involved. Still you

won't be able to guess what 'crazy' or amusing thing a jury will do next." This I know: I've tried it!

The stories recounted by Cerny are not only amusing, but useable and exemplify the point in his book as the story was supposed to emphasize the point before the jury.

Certainly, the book is not one that "preaches" or assures that the best and most prepared lawyer will always win, through the bloody battle to the golden award. The book is practical, very practical, but has just the right amount of learning and psychological twists that must accompany any words of advice that are to be valuable and remembered, these days. The chapter "When and How to Settle Lawsuits" gives the different, sometimes amusing, but overall most valuable approach to the answer of this sixty-four dollar question.

The author has "been around." His advice is so varied, as well as valuable, that it would be unfair even to attempt to summarize it in a book review.

Similarly, the chapters so sparkle with originality and variety of suggestion that it would be unfair in a book review merely to list chapter headings. The curriculum today in any law school is so heavy that the trial-lawyer-to-be has little time for viewing the courtroom or the actual trial. Unlike the doctor, whose scalpel and someone else's body is always close at hand through his learning, the lawyer's books are too frequently too far from reality.

But every law student manages to read "Time" or "Newsweek" or the daily morning paper. Let him miss a couple of issues of these, and read "Courtroom Know-How" by a knowing reporter. It will really start him thinking about his profession in a new light—and double up his already too many problems, perhaps. Here is a book every law professor could justifiably recommend to his students—and every lawyer, could, with equal pride, give to his clients.

*Melvin M. Belli*

San Francisco and  
Hollywood (Los Angeles),  
California Bars

MODERN CRIMINAL PROCEDURE. By Roy Moreland. Bobbs-Merrill Co., Inc. 1 vol., 334 pp.

A new book is always an event. The mere announcement of its publication stirs curiosity and speculation as to its author, purpose, and subject matter. Both the curious and purposeful reader will find substantial rewards in reading Professor Roy Moreland's, "Modern Criminal Procedure."