

# Carmody on Practice (Students' Edition) (Book Review)

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complex subject, and presenting in a carefully indexed volume an admirable outline of the authorities in each jurisdiction as the foundation for more extended research.

JOHN F. DOOLING, JR.

Cambridge, Mass.

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CARMODY ON PRACTICE (Students' Edition). Revised by Edw. Q. Carr and John F. X. Finn. New York: Clark Boardman Co., 1931, pp. 1,088.

Law is divided into substantive law and adjective law. The former defines the rights of individuals while the latter indicates the procedure by which such rights are to be enforced.<sup>1</sup> In other words, substantive law is that portion of the body of the law which contains the rights and duties and the regulations of government as opposed to that part which contains the rules and remedies by which the substantive law is administered.<sup>2</sup> The administration of the substantive law is commonly known as Practice. Practice is defined as the form, manner, and order of conducting and carrying on suits or prosecutions in the courts through their various stages, according to the principles of law and the rules laid down by the respective courts.<sup>3</sup>

Practice in New York, controlled largely now by the Civil Practice Act, is the culmination of various endeavors on the part of the Legislature to simplify and make uniform rules of practice. The Code of Procedure, often referred to as the "Field Code," inaugurated statutory regulation of procedure in New York. This code consisted of only 391 sections. The code assumed that the legislature was thereafter to govern court procedure and that idea, coupled with the narrow interpretation of the judges who had been opposed to its enactment, resulted in complications. Legislative meddling caused the code to become considerably enlarged.<sup>4</sup> In 1880 there was enacted what was known as Throop's Code under the name of Code of Civil Procedure. This code finally became a statute containing about 3,400 sections. In 1920 the Legislature replaced the Code of Civil Procedure with the Civil Practice and a number of allied acts.<sup>5</sup> The Civil Practice Act, supplemented by Rules of Civil Practice, is the basic act of practice in New York.

So complicated, apparently, is the study of Practice that the average student approaches it with no little trepidation. And perhaps rightly so, for this subject has been termed the most difficult of all law school subjects. Anything which will assist the student in grasping a knowledge of the fundamentals is indeed a blessing. Such a blessing is the Students' Edition of Carmody on Practice. The task of revising the previous editions of this important work fell into the

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<sup>1</sup> HOLLAND, *ELEMENTS OF JURISPRUDENCE*, 148.

<sup>2</sup> *Cyc. Law Dict.*, 879.

<sup>3</sup> *Ibid.*, 712.

<sup>4</sup> TAFT, *LAW REFORM* (1926) 102.

<sup>5</sup> New York City Court Act, Surrogate's Court Act, Court of Claims Act, Justice's Court Act.

able hands of Professors Carr and Finn of the Fordham Law School. And they have done the job well.

A close inspection of this work makes one aware of the fact that this is a most unorthodox law book. For instead of page on page of printed matter explaining various points of the law there are a few charts which explain themselves at a glance. For example, at page 283, in a series of charts the revisers dispose of many of the difficult passages on counterclaims found in the Civil Practice Act.<sup>6</sup> At another point the student is shown, by a succinct summary, of the steps to be taken in a jury trial, as well as in a non-jury trial.

In this present edition Messrs. Carr and Finn have eliminated obsolete passages, revitalized archaic ones and brought citations, footnotes, case digests and statutes up to date. As an original contribution they have added a chapter on Appeals, and have also supplied problems for the student to solve, the charts mentioned above, suggested reading assignments, typical "True-False" questions of the "Bar Examination" type, and forty new forms. These additions should certainly tend to stimulate in the student a real interest in what might otherwise seem a dry, tiresome and difficult study.

The book consists of 1,088 pages, of which twenty-five are devoted to its table of contents and 100 to the index. The printing is on thin paper, the flexible fabrikoid binding is durable, and altogether the book is an unusually easy one to handle.

Naturally it is not a complete book on Practice, but it covers a broad field nevertheless. The plain statements of the different steps to be taken in relation to the provisional remedies, in bringing a case on for trial, in the trial itself, in entering judgment, in many incidental and collateral proceedings, and in conducting an appeal, are at once the open sesame to the average student who knows rules of law, but now, for the first time, is learning how to use them.

RAYMOND C. WILLIAMS.

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CASES AND MATERIALS IN THE LAW OF CORPORATE REORGANIZATION, by William O. Douglass and Carrol M. Shanks. St. Paul: West Publishing Co., 1930, pp. vii, 559.

With the advent of the "functional approach" group specialization courses have become prominent in the curricula of our principal law schools. Greater recognition is being given to particular fields of practice. Instead of a four-hour course in Corporations being practically all the students receive in the field, it is now possible for students particularly interested in corporate problems to carry on through many related subjects. At least, it would be feasible to make this additional material available in the third year without resulting in narrow specialization. It is with this program in general, and particularly with the courses given in Business Units at Yale, that the present edition, full to the bursting with painstaking research and thought, fits in nicely.

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<sup>6</sup> C. P. A., 266-271.