Supplement to Cases and Materials on New York Pleading and Practice (Parts I and II) (Book Review)

Edward J. O'Toole

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has specialized and gained an enviable reputation in the trial of civil and
criminal cases. He has also been a legal educator, teaching in the Illinois
College of Law, later absorbed by De Paul University, and subsequently be-
coming Dean of its Evening Law School, in which position he served until
1923 when he became Dean Emeritus. His prior publications have been
strictly confined to law books.

The editor states in the frontispiece, that this book provides "more prac-
tical instructions for the young trial lawyer and law student than are to be
found in a hundred orthodox law books." With this statement, your reviewer
whole-heartedly disagrees.

The book is essentially a compilation of interesting anecdotes detailing
occurrences during trials in which the author either took a part, or was an
observer. Various colorful members of the Illinois Bar, and judges in the
different courts of that state, appear frequently in the many short stories told.

Interesting factual situations are presented, clever bits of cross-examination
are related, and unusual and humorous rulings by certain members of the
judiciary are told. The book makes absorbing albeit light reading and can be
highly recommended for an evening's entertainment. However, its value in
practical instruction is almost nil. No summary of the contents can herein
be presented, because there is no particular point made by the book, nor has
it a plot or central theme. It can be likened to a collection of O. Henry
stories, with similar wide variations of characters and surprising or unusual
conclusions.

The book, having as its situs Chicago, gives a good description of the
practice of law in a large metropolis during the early part of this century.
Court-room procedure was decidedly more informal then, than now. Trial
counsel apparently were then permitted much greater liberty in cross-
examination and in making pointed observations respecting witnesses and even
the court itself. A spirit of friendliness among the judges and opposing
counsel then prevailed. But then, as now, the most important weapon in the
trial counsel's artillery was intensive investigation. If any point is made by
this book, it is in again and again impressing upon the reader the indis-
putable principle that the investigation of facts and the preparation of the
law pertaining to the facts are the foundations of a successful trial.

TRAVERS E. DEVLIN.*

SUPPLEMENT TO CASES AND MATERIALS ON NEW YORK PLEADING AND PRACTICE.
Parts I and II. By Louis Prashker. Brooklyn, N. Y., 1942, pp. 542.

Probably the most discouraging feature of any legal publication on current
law, is that its usefulness begins to be impaired with the date of publication.

* Trial Counsel, Hudson & Manhattan Railroad Company.
lation and the changing attitudes of courts to old doctrines in the solution of
different, if not novel, states of fact.

Although much can be said in behalf of those who believe it unimportant
that law students be "kept up to date" and that the emphasis should be on legal
reasoning and not on last-minute results, the case of these advocates is not so
strong when it comes to the law of pleading and practice as developed in a
particular jurisdiction. It would seem that in this subject modernity must be
stressed unless the position is taken that the student is not interested in how
procedure is functioning today.

Professor Prashker has apparently seen the need for a living course in
procedure. In his latest publication, he has meticulously stated and appraised
decisional and statutory law of procedure since the date of his main publication
in 1937. Many have been the changes in this short period, as an inspection of
the supplements will reveal. Nor has the author hesitated, when opportunity
presented itself, to state unqualifiedly his views on matters which remain quite
unsettled.¹

There is little doubt that in ordinary times, it might have been better to
have integrated the new matter with the old and published a single revised
edition. However, these are not ordinary times and any intelligent method
whereby the law can be so skillfully brought down to date, without adding to
the expenditures of the student, seems sound.

Practicing lawyers cannot fail to appreciate the merit of the main volume
and the supplements. Together, they analyze, they clarify and they summarize
the New York Law of Procedure in a scholarly and lucid manner. Another
work of outstanding excellence may now be added to our bookshelves.

Edward J. O'Toole.*

¹ See discussions of C. P. A. §229-b at p. 127; of Statute of Limitations
and conflict of laws at p. 39; of effect of service of amended pleading at p. 237;
of scope of amendments to a pleading at pp. 240-243; and of admissions as to
matters of fact, papers, documents and photographs (C. P. A. §322) at p. 413.

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