

**JURIDICAL REFORM: A CRITICAL
COMPARISON OF PLEADING
AND PRACTICE UNDER THE
COMMON LAW AND EQUITY
SYSTEMS OF PRACTICE**

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Judicial reform: a critical comparison of pleading and practice under the common law and equity systems of practice by John D. Works

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JOHN D. WORKS

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JURIDICAL REFORM

A CRITICAL COMPARISON OF PLEADING AND PRACTICE UNDER THE COMMON LAW AND EQUITY SYSTEMS OF PRACTICE, THE ENGLISH JUDICATURE ACTS, AND CODES OF THE SEVERAL STATES OF THIS COUNTRY, WITH A VIEW TO GREATER EFFICIENCY AND ECONOMY

By JOHN D. WORKS

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PREFACE

THIS little book is intended not only to point out some of the changes in the laws of pleading, practice, and procedure, necessary to mitigate present conditions resulting in interminable delays and enormous expense in maintaining the courts and the administration of justice, but also to show that a large part of the delays, and consequent unnecessary expense of litigation, is not brought about by defective laws alone but by the dilatory and faulty administration of the laws we have.

The author speaks from fifty years of active experience at the bar and on the bench, and out of an exalted conception of the duties and obligations of the courts, including the lawyers who, as sworn officers of the courts, constitute an important and responsible part of our juridical system. These duties and obligations are not to clients and litigants only but to the whole people, by whom the courts are ordained and supported. The courts are not established merely for the purpose of deciding disputes between individuals but to serve the public interests in the prompt, effective, and righteous administration of the laws.

What is said here in the way of criticism of the manner of conducting business by the courts is not personal, nor is it directed at any judge or judges

in particular. It is intended to call attention to the unfortunate habits and customs into which judges and lawyers have fallen, and to stimulate both to a more earnest, concerted, and coöperative effort to remedy the faults that have brought them both into just reproach and public disfavor.

It is believed that our judges and lawyers, taken as a whole, will compare favorably in standing, ability, and integrity with those of other countries, and that, with rare exceptions, they are performing their important duties conscientiously and with fidelity. But no one connected with the courts and familiar with their manner of doing business can fail to see that they are lax in their methods, and that they fail to administer and enforce our laws with the promptness that their duty requires of them. It is very largely this failure to act with promptness and with a firm determination to waste no time in the conduct of the business of the courts that has given rise to the persistent outcry against the "law's delays" and the country-wide demand for better things.

One of the primary objects of this book is to impress upon the minds of judges and lawyers that, in a greater degree than most of them think, the remedy for this evil rests with them rather than with the law-making power, and that it lies with them to restore to the courts the trust and confidence of the people, to which they are entitled if they do their whole duty.

Our courts are the representatives of justice, the guardians of the rights and liberties of the people of

a free Republic, and the protectors of the rights of litigants as between themselves, and as such they should have and maintain the respect and confidence of the whole people.

It is hoped that what is said here may help to inspire in the minds of judges and lawyers a higher sense of the grave responsibilities resting upon them and a stronger determination to make the courts in every way worthy of the highest respect and confidence.

J. D. W.

December, 1918.