

Preface

On July 19, 1980, New York State joined the ranks of those jurisdictions which determine the property rights of matrimonial litigants in accordance with the precepts of equitable distribution. By the reform legislation of 1980 New York finally cast off the rigid title strictures that had long bound the judicial hands and restrained them from effecting equitable justice between parties seeking divorce.

The reform measures of the 1980 legislation, which are collectively referred to as the equitable distribution law, represented a radical departure from the past and ushered in new concepts of separate and marital property, distributive awards and spousal maintenance. All of these concepts are embodied in the new Part B of Section 236 of the Domestic Relations Law, which has become the cornerstone of matrimonial practice since passage of the reform act.

The present work will treat the substantive law of equitable distribution within the integrated context of matrimonial practice, as this is the practical setting in which it is encountered by the practitioner.

The substantive law of property division, spousal maintenance, child support and special relief is treated in Volume 1. Also, in this volume will be found the law of separation agreements, as well as discussion of the negotiation and drafting of these ever important settlement documents. The tax consequences that attend disposition of the economic issues incidental to marital dissolution, with particular emphasis on the provisions of the Domestic Relations Tax Reform of 1984, also receives treatment in this volume.

Volumes 2 and 3 focus on the day-to-day practice of matrimonial law. The discussion commences with the initial consultation when the prospective client walks through the door. Preliminary litigation issues, such as jurisdiction and commencement of the litigation issues, such as jurisdiction and commencement of the action, grounds and defenses in divorce actions, and pleadings are considered. The vitally important issues of pretrial disclosure and motion practice are treated here as well. Finally, the treatment moves to the subject of trial practice, starting with such practical concerns as filing the note of issue and calendar practice and continuing through the trial to the point where final proposed findings of fact and conclusions of law are submitted to the court after the close of testimony.

Since the advent of equitable distribution, matrimonial practice has attained a level of sophistication far beyond that which was the case but a few years ago. The nature of the practice has become economically oriented, with actuarial reports and electronic calculators replacing steamy motel photographs and private investigators as the principal tools of the trade. Accordingly, much of this work is aimed at the economic issues that are often the main concerns of the matrimonial litigants and, hence, of the bench and bar as well.

It is hoped that this present work will be of practical assistance to those attorneys and jurists who must deal with matrimonial actions and equitable distribution issues on either a regular or occasional basis. The intention is that this work will be a growing one in years ahead, not only keeping the reader up to date by periodic supplementation but also by the inclusion of additional chapters that will broaden the scope of the work even further.

Timothy M. Tippins