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SUMMARY OF CONTENTS

Practical Manuals for Meiji Civil Procedure Code (1891-1929): especially on oral proceedings and its preparation.

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After promulgation of the first modern Civil Procedure Code in Japan (1891), so many practical manuals were published and diffused for legal practitioners (mainly attorneys) and laymen, such as introductory explanation or commentary for the code, and forms of writings. These manuals paraphrased complicated rules and doctrines for use in courts, offered patterns and techniques for individual cases, and sometimes went so far as to advise tricky tactics. These rather simplified knowledge could greatly influence real litigation proceedings more directly than code itself or textbooks. Moreover, Japan had accepted western modern legal system in too short a time, and under this situation this sort of practical techniques was appropriate for attorneys and laymen alike, so that they could "muddle through" in court without profound learning of codes and doctrines. We can say practical manuals played a quite important role in order to popularize modern civil procedure in Japan, but little is known about them until today.

In this article we take up descriptions of practical manuals on party initiative and judge's directive power for fixing issues and proof-taking, and compare them with explanations in textbooks to clarify their characteristics. We refer also to articles in "Horitsu Shimbun (The Legal News)", the most famous legal media in this period, so that we could classify descriptions in

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practical manuals into reals or ideals of litigation proceedings.

In practical manuals, preparing written evidences and briefs was a major theme. As for evidences, this reflected court practice in those days, which attached much emphasis to documents, although often harshly criticised by practitioners. As for briefs, some advised parties to submit them with delay or without sufficient allegations "intentionally", others demanded to present them at an appropriate time for fixing issues at the early stage. This is one of the examples of interest conflict between players in court.

A large part of practical manual titles were for laymen. Western civil procedure had become learned since 13th century, so-called roman- canonical procedure, and learned attorneys and notaries had been quite widespread by 19th century. Such legal tradition had not existed in Japan, therefore practical manual might have played a more important role than in Germany. How far civil procedure was popularized through practical manuals could be one of the major factors in deciding how far judge's directive power should intervene for the benefit of parties.