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Book Review [Domestic Relations: Civil & Canon Law]

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BOOK REVIEW

DOMESTIC RELATIONS: CIVIL & CANON LAW. By Philip A. Ryan and Dom David Granfield. Brooklyn: The Foundation Press, Inc. 1963. Pp. xxiii, 580. \$9.00.

In undertaking this book the authors successfully attempt the difficult task of achieving "legal ecumenism." The work is intended to serve as the basis of a traditional one-semester, case-based course in family law, while providing an "integrated though quantitatively subordinate treatment of the Canon Law of Marriage . . . as it affects related areas of civil law."¹ It must thus be judged not solely upon the basis that it is a novel combination of civil and canon law materials, but also upon its utility as a teaching device for the presentation of civil law cases on family life and its problems. It comes out a worthwhile achievement on both counts.

The book is divided into seven chapters, treating in logical progression the areas of pre-marital relationships; the nature of marriage; the validity of the marital contract; the dissolution of the family unit; support of the family; and relations between husband and wife, and parent and child. Included in this last chapter is a particularly good section on adoptions, with thorough annotations. An appendix contains a summary article on "The Catholic Lawyer in Marriage Cases." Throughout the book, comparative statutory material (principally from California, the District of Columbia, New York and Massachusetts) has been well-selected and conveniently placed. The canonical materials are taken up in text and note following the principal cases. The format is pleasant to use, and the notes are informative and well done. Their size and placement are such as to encourage student use.

All in all, the selection and editing of cases is good, though every teacher of family law will probably find that certain of his or her "pet" cases are glaringly omitted. (For example, this reviewer noted with sorrow the lack of the infamous case of *Tompkins v. Tompkins*,² announcing the Doctrine of Triennial Cohabitation, and the classic *Walker v. Matthews*.³) Some will feel the authors have cut too much, as in relegating the *Williams* cases to note status.⁴ No discussion is given to guardianships or conservator-

¹ P. xi

² 92 N.J. Eq. 113, 111 Atl. 599 (1920).

³ 191 Miss. 489, 3 So. 2d 820 (1941). The following quote from the decision gives a fair picture of the case: "We will try to weave into the warp of the life of this Lothario the woof of his nuptial and concubinage experiences, in an effort to picture the fabric of his earthly existence." The Court succeeds quite well.

⁴ See p. 242. The authors conclude that full coverage of this area is better left to the course on Conflict of Laws.

ships; emancipation is allotted one case;⁵ and no material is included on the Juvenile Court (an area which presents unique problems in the canonical as well as the civil field). There is a disappointing lack of reference to the literature of the behavioral sciences, particularly in the section on child custody.⁶ These omissions are relatively minor, however, when viewed against the overall organization, and are readily remedied by the instructor, who can easily work in materials of his own choosing. In fact, this flexibility of structure and its succinct coverage is one of the book's major virtues. This reviewer found it well-adapted, for example, to the addition of comprehensive materials on the morass of California law relating to marital agreements and alimony.

The canonical material is equally well-organized, but certain additions would contribute to maximum utility and interest. The student is too often thrown up against recondite terms and concepts insufficiently defined for the reader who lacks ecclesiastical background.⁷ A similar irritant is the occasional use of Latin phrases without translation—phrases which may be keys to the concept under discussion, and which are sufficiently peculiar to the canon law to be omitted from those wellsprings of wisdom, the legal dictionaries.⁸ A gloss would be of considerable help, as would tabular material showing the procedural routing of the marital case through the channels of canonical appeal. A note on the use of canonical materials in research, the authoritative effect of canonical decisions at the various levels, canonical case reports, commentaries, Tribunal opinions, and the like would also be desirable.

Despite these lacks, however, the book emerges as a sound and worthy contribution. While it will be of principal interest to Catholic law schools, this reviewer predicts it will not find so limited a market.⁹ To the teacher of a survey course in family law who wishes a casebook which does not sacrifice scholarship for manageability, Professor Ryan's and Father Granfield's book will be a useful addition. To the teacher of comparative law, the book should be a challenging and valuable aid in developing an area too often overlooked.

*Aidan R. Gough**

⁵ See p. 495.

⁶ Pp. 502-33.

⁷ See, e.g., discussion of the diriment impediment of prior bond on p. 31 *et seq.*

⁸ See, e.g., p. 31; pp. 37-41, esp. note 8.

⁹ As the authors observe, the intricacies of canon law directly touch some 43,000,000 Americans who are Roman Catholics. Many millions more, though not Catholics themselves, are married to Catholics. Most lawyers, Catholic or not, regard the canon law as wholly beyond their ken—too often to the detriment of their clients. From this standpoint alone, this book should fill a need.

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