

Previews and Practical Cases on Marriage

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BOOK REVIEWS

PRELIMINARIES AND PRACTICAL CASES ON MARRIAGE

Volume I: Preliminaries and Impediments, Canons 1012-1080

by *Owen M. Cloran, S.J.*

The Bruce Publishing Company, Milwaukee, 1960. Pp. 403. \$8.50.

Reviewed by

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This is a practical book for American attorneys. Conscientious lawyers, Catholic and non-Catholic, are faced frequently enough with the question: May I in good conscience obtain a requested civil divorce? Where the marriage is void because of the existence of an invalidating impediment, a lawyer may in good conscience obtain a legal separation by way of divorce or annulment where the parties cannot be reconciled and their illegal situation validated. The problem of conscience thus becomes one of selecting a suitable criterion for deciding whether a given marriage is void.

Legislation in every jurisdiction provides grounds for separation of married couples either by divorce or annulment. The attorney, however, aware of the sometimes cavalier treatment given marriage, divorce, and annulment, hesitates to accept prevailing civil grounds of annulment or divorce as a standard of conscience for his acceptance or rejection of a request for divorce. Catholic attorneys acknowledge the Church's teaching on this question. Others also would be on firm moral ground if they accepted as a criterion of void or valid marriage the Canon Law of the Roman Catholic Church which is the one remaining bulwark of conservatism in this area.

This book, the first of a proposed three volume work, treats the Canon Law impediments to marriage, both those which invalidate and those which, while not invalidating, make marriage illicit. The attorney can find here a detailed presentation of invalidating grounds familiar to him by reason of his legal training: non-age, prior existing marriage, impotency, fear and duress, consanguinity and affinity. An excellent discussion is also presented of Canonical impediments unfamiliar to the lawyer: crime, disparity of cult, abduction, sacred orders, and solemn religious profession. While the author may not have set out to solve this specific conscience problem of the American attorney, the book can easily and profitably be used for that end. The attorney could compose a set of probing questions for clients seeking a civil divorce. Should he thus discover an invalidating ground in the Canon Law, he would have a firm basis for conscientiously seeking a legal separation on grounds established in his state jurisdiction for civil divorce or annulment, providing, however, that proper permissions have been obtained from the Catholic Chancery Office of the diocese.

While *Previews* is not a casebook of the

variety used in American law schools, the lawyer will readily appreciate the method employed by the author. A practical case is proposed involving each of the canonical impediments. There follows a full and detailed exposition of the principles applicable to the situation. Finally a brief, clear-cut solution is given to the case. As used by the author the method serves to concretize canonical principles and to make the reader aware of the caution that must be exercised in passing judgment on the validity of a given marriage. For the hurried lawyer in search of a quick discussion of a particular problem an excellent index has been provided.

Above and beyond its practicality to the American lawyer this book is a veritable tour de force which will prove amazing to any student of the law whether he is of the Civil, Common or Canon Law variety. By way of an almost incidental by-product the reader will come to a sudden realization of

the painstaking research, the profound thought, the patient argumentation, and the careful judgments of hundreds of moral theologians and canonists on the most minute questions concerning marriage. The author's own extensive learning in the field of marriage in general and his comprehensive grasp of Canon Law are manifest on every page. His perceptive insight into the applicability of principles to fact testify to a legal mind of unusual competence. His precise marshalling together of the myriad considerations necessary to the solution of a case and his remarkably coherent presentation of the law involved in this complex area mark the author as a devoted student of Canon Law, a practical man sympathetic with the problems of everyday living, and a resourceful teacher. Every lawyer could profit greatly from a careful reading of this book which manifests and inspires to mastery, one of the ideals of the legal profession.
