

The Legal Effect of Ante-Nuptial Agreements in Mixed Marriages (Book Review)

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possess. The faltering step of judicial adventuring has given place to the sure tread of judicial supremacy.

Professor Haines strips the American doctrine of judicial supremacy of all mystery by a scholarly and analytic study of the historical material. His book is a significant and valuable contribution to legal literature.

LOUIS S. POSNER.

New York City.

THE LEGAL EFFECT OF ANTE-NUPTIAL AGREEMENTS IN MIXED MARRIAGES. By Rev. Robert J. White. Preface by Clarence E. Martin. Philadelphia, Pa.: Dolpin Press, pp. viii, 80.

The Catholic Church frowns on the marriage of one of its members to a non-Catholic. This is because the Church considers the primary purpose of matrimony to be the procreation of children and the rearing and upbringing of such offspring in accord with her teachings. Naturally where one of the parties to a union is not a Catholic, he will be unsympathetic to the fostering of that faith in his children. Thus it is that the Church of Rome refuses to marry one of its members to a non-communicant without his absolute promise to the other party that in consideration of marriage the children of the union will be educated in the Catholic religion and furthermore that the Catholic party shall not be interfered with in the exercise of religious duties. Concerning the legal enforceability of such agreements as these, Father White, Professor of Law at the Catholic University Law School, has written this interesting little book.

The author holds that the mutual promises of the parties constitute a valid contract which is of such a nature that Equity will decree its specific performance.

Legal precedent is always of paramount importance both to lawyers and courts. It is to this subject which the writer first directs the reader's attention. A careful analysis of the various English and American cases reveals a startling lack of actual authority, as distinguished from dicta, on the subject. The few decisions, actually in point, are shown to be based on prejudice as well as faulty reasoning.

With the first great hurdle overcome, specific performance of the ante-nuptial agreement is reviewed in light of pure legal logic. Into the lawyer's crucible are thrown the mutual promises, proper in form, the consideration spelled out of these promises (free practice of religion and education of the children of the union in that religion by one party against marriage and a change of status by the other), finally the legality of the undertaking and from these the valid contract is moulded. Having demonstrated the existence of a good legal undertaking, the writer states the case in favor of an equitable decree of performance. The nature of the right involved, which Dean Pound has denominated a "right of personality," brings forth a learned discussion of the modern light in which Equity views such a claim. The ancient doctrine

requiring the establishment of a property right before a court will take jurisdiction is properly exploded as unworthy of a tribunal which prides itself on shaping its decrees to effect the remedy of a substantial wrong. Personally the reviewer found this subject the most interesting of those treated, but he feels that legal precedent, in this state at least, is opposed to the author's conclusion.

Later chapters treat of the religious status of the child when one or both parents are dead and the value given religion by the courts in considering what domicile would be for the best interest of the child. The author shows that concerning these questions no definite rule can be laid down since the decisions are in hopeless confusion.

There is also included in this volume a compilation of the statutes of the various states involving the subjects treated and the author closes by demonstrating that public policy should favor rather than hinder the enforcement of these ante-nuptial agreements.

This little volume is worthy of a place on the bookshelf of both lawyer and priest. The commendation in its preface, written by Hon. Clarence E. Martin that, "Our legislatures and courts and the legal profession in English-speaking countries are under a debt to the author for this discussion of an important point of law" is heartily concurred in by the reviewer.

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LAW AND PRACTICE IN CORPORATE CONTROL. By Chester Rohrllich. New York: Baker, Voorhis & Co., 1933, pp. vii, 268.

One may never know what decision a growing child will reach when confronted with a particular problem. But if careful attention is given toward an understanding of the child's habits and environment, past and present, certain predictions can be ventured with a fair degree of certainty. And just as this understanding is necessary in comprehending the decisions of a child so it is needed in reaching the probable decision of judges in matters presented for their consideration. "The practice of law," as Mr. Rohrllich observes, "involves the art of prediction," which as a consequence requires a careful analysis of prior decisions, a consideration of the *mores* of the time and an understanding of the judicial temperament. The author has made a distinct contribution to the rather scant compact information concerning corporate control. The unprecedented growth of corporate entities in the past decade left much to be hoped for in the way of a guide to the successful operation of corporate management. Much has been written concerning formal corporate practice but the task of formulating a basis for understanding the intricacies of corporate machinery seems to have been left to law professors and writers such as Mr. Rohrllich whose contributions to legal periodicals in this instance served as a source for the present text. That these contributors have per-