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FLORIDA LAW OF THE FAMILY, MARRIAGE AND DIVORCE. By James M. Carson. Atlanta: The Harrison Company, 1950.

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BOOK REVIEWS

FLORIDA LAW OF THE FAMILY, MARRIAGE AND DIVORCE. By James M. Carson. Atlanta: The Harrison Company, 1950. Pp. 1019. $20.00.

THIS compendium, like King Richard the Third, is

". . . curtailed of . . . fair proportion . . .
Deform'd, unfinish'd, sent before (its) time
Into this breathing world, scarce half made up,
And so lamely and unfashionable
That dogs bark. . . ."

Its obesity (1019 pages) is compounded of 476 pages of pontifications upon the grandiose themes of "Marriage", "Rights and Duties of Husband and Wife", "Annulment", "Alimony without Divorce", "Children"; "Law of Divorce", "Practice and Procedure", and "Legal and Religious Doctrines"; 316 pages of mossy "Forms" of dubious utility; and 40 pages of memorabilia on a nisi prius case of transitory noisesomeness.

Appendices[1] and indices consume the balance of the good paper and printer's ink dedicated to this fat opus.

Such an agglomeration leaves for rending by the critical fang only the textual lucubrations, and the adipous "Forms" thereinbetween interlarded.

It is deficient in both aspects, and its genesis transpired without benefit of a certificate of convenience and necessity.

As to the text, its eruditiön is habilimented in forma pauperis;[2] and its logic is aberrant.[3]

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1. These consist of: "A", the squabbling opinions of the United States Supreme Court in the Sherrer v. Sherrer, 334 U.S. 343 (1948); Coe v. Coe, 334 U.S. 378 (1948); Estin v. Estin, 334 U.S. 541 (1948); Kreiger v. Kreiger, 334 U.S. 555 (1948); Rice v. Rice, 336 U.S. 674 (1949) imbroglios; "B", Justice Terrell's opinions a la mode; "C" consecrated to "Excerpts of Opinions Concerning Extreme Cruelty"; and "D" being devoted to the setting forth in extenso of five legislative enactments of such compulsive urgency as "An Act Relating to and Fixing the Compensation of the Probation Officer of any County having a Population of 315,000 or more Inhabitants."

2. "The Nature and Origin of Law" is unperspiringly compressed within the modest confines of two and a half pages.

3. These are fair samplings:

(a) "Andrew Jackson's wife, Rachel, had not been divorced at the time he married her . . . " (p. 15); ergo, the "Jackson influence may explain the reason for the liberality of Florida Divorce Laws from the beginning." (p. 16).

(b) The following thesis on the Estin and Rice, the so-called "Divisible Divorce Cases" is casually tossed off:

"If I understand the decisions of those cases, they mean that the decree dissolving the marriage as such is entitled to full faith and credit, but is not entitled to full faith and credit insofar as it undertakes to transfer control of money or property from the Northeastern and New England States to newer states in the Union, or to those which have more liberal divorce laws. . . . Upon legal grounds, it is difficult to justify those decisions . . . but upon the basis of historical tendency they may be easily understood, if not justified. From the very early days of the republic the courts of

The avowedly provincial scope of the book gives it no justification, because Florida is not heterodoxical in its Domestic Relations. The Supreme Court is not unaddicted to the doctrinal nostrums neatly capsuled for every need in Corpus Juris (et Secundum) and American Jurisprudence.

Portions of the book are inexplicably still-born. The chapters on "Summons and Service"; "Appearance"; and "Essentials and Time for Filing of Defensive Pleadings" based on the 1931 Chancery Act, are already superceded by the 1950 Equity Rules.

The "Forms" need not detain us. They are, in the main, moribund relics of a bygone generation when loquacity distinguished advocacy practiced against a backdrop of banjos strumming by the Suwannee River, alligators drowsing on the Court House steps, and tobacco juice punctuating perorations to the jury.

In this age, when Justice runs to keep apace crowded dockets and "shoots from the hip", direct and forthright expository pleading is the summum bonum.

The book may be accounted for by the fact that Domestic Relations is dogma (rather than law) which allures facile scholar and homiletic jurist alike to frenzied pens. Marriage is good. Family is good. Divorce is evil. (The author dissident).[4]

The chief misfortune of the book is that it is loosely labeled. As a collection of memoirs and reminiscences of a colorful practitioner whose years of joistings in a formative period of Florida jurisprudence made him a local institution, it is more than readable. He is profligate in distributing the small but useful currency of that "know-how" acquirable only through the process of hammering and being hammered upon the anvil of trial combat. He cautions that: "In reading the opinions of the Supreme Court of Florida on divorce, we need not pay too much attention to the legal doc-

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New England and New York have shown a determination to keep the financial control of all parts of the United States centered in that part of the country. This historical theory will not be elaborated, but can be traced through the institutions of those states and the decisions of their courts from very early days." (pp. 446, 447).

4. *The preaching*:

Herron v. Passailaigue, 92 Fla. 818, 110 So. 539 (1926) quoting Maynard v. Hill, 125 U.S. 190 (1888): "(Marriage is) a relation the most important, as affecting the happiness of individuals, the first step from barbarism to incipient civilization, the purest tie of social life, and the true basis of human progress."

Potter v. Potter, 101 Fla. 1199, 133 So. 94 (1931): "Our civilization and moral standards rest largely upon the existence of homes and the family relation. The existence of the family relation is based upon the sanctity of the marriage relation."

Hancock v. Hancock, 55 Fla. 680, 45 So. 1020 (1908) quoting Moore v. Moore, 22 Tex. 237 (1858): "The remedy of divorce is, at best, a mournful remedy; and it is one which the law will dispense with an unwilling hand."

The practice:

Miner, *Concilation Rather Than Reconciliation* (1948) 43 ILL. L. REV. 464 (1948): Approximately "1 out of 3 marriages in the United States ends in failure. Approximately 359,000 divorces were granted in the United States in 1943; 400,000 in 1944; 490,000 in 1945; and 620,000 in 1946;" (not inclusive of separate maintenance decrees).

trines announced . . ." (p. 324).[5] Put your trust in the "Facts," he opines.[6] Nor is he averse to attempts to psychoanalyze the court (pp. 345, 367).[7]

In books, as in law and matrimony, De gustibus non disputandum, and the least that can be said is that in this instance ". . . the aim of the publishers . . . to publish books . . ." (Publisher's Note) has been achieved.

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BRAZILIAN CULTURE. By Fernando de Azevedo. New York: The Macmillan Company, 1950. Pp. xxix, 562. $12.50.

OF late increased emphasis has been placed in the curricula of graduate and undergraduate schools on Inter-American affairs. Such attention is especially noteworthy in the law school programs.[1] And this is only natural. For today, perhaps more than ever before, the "Good Neighbor" Policy assumes an importance of immense proportions, especially with respect to the countries of North, Central, and South America. Every day both government policy and private planning recognize more clearly the vital necessity for a meeting of the Americas on common ground.[2] As Dean Russell A. Rasco has observed: "The core of any 'good neighbor' relationship lies within—in the hearts and minds of the neighbors themselves. These neighbors are no more or no less than the people of the countries of North and South America. And of these people no one is more important to the success of the Good Neighbor Policy than the lawyer. For the lawyer is the regulator of the affairs of governments and men. He is the inter-nation draftsman of treaties, pacts, and protocols. He is the intra-nation leader in political, economic, and social matters. He is truly the policy maker of the Good Neighbor Policy."[3]

The present volume for my money is an excellent vehicle for training

5. His sagacity is prescient. In *Dade County v. Brigham*, 47 So.2d 602 (Fla. 1950), the Court guilelessly observes: "To recite and approve a general rule in one case is not the equivalent of establishing it as an unyielding, inflexible guide in every case."

6. *Cf.* Judge Frank's footnote in Magnetic Engineering & Mfg. Co. v. Dings Mfg. Co., 178 F.2d 866, 871 (1950): ". . . Chancellor Kent said . . . when deciding a case, he first made himself "master of the facts." Then, he continued, "I saw where justice lay, and the moral sense decided the court half the time; I then sat down to search the authorities . . . I might once in a while be embarrassed by a technical rule, but I almost always found principles suited to my view of the case."

7. *Cf.* FRANK, LAW AND THE MODERN MIND, pp. 111-115 (1936).

1. See Rasco, *Legal Education: The Latin American Program in Plan and Retrospect*, 3 MIAMI L. Q. 491 (1949); Lorenzen, *Foreword*, 4 MIAMI L. Q. 423 (1950).

2. Recently formulated plans for a gigantic Inter-American Trade and Cultural Center, to be located in Miami, Florida, furnish an example of such recognition. The establishment of the Organization of American States and the Inter-American Treaty of Reciprocal Assistance are further signs of progress towards Inter-American solidarity.

3. Rasco, *supra* note 1 at 491.

4. See, *e.g.*, *Latin American Symposium*, 4 MIAMI L. Q. (1950).

5. There are very few complete modern treaties. For example, Obregon's book, LATIN AMERICAN COMMERCIAL LAW, is over twenty-five years old.