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Matrimonial Legislation: El Matrimonio En El Derecho Cononico Particular Posterior AlCodigo

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'thesis' theory. At times one wishes that there were a more sympathetic understanding of the concrete historical conditions which surround Church-State relations in democratic countries, principally the United States. However, these in no way lessen the intrinsic value of *Iglesia y Estado* as a presentation of the "thesis-hypothesis" theory in the light of philosophical reasoning and the magisterial pronouncements of the Church.

In the concluding pages of the book the author reproduces in Spanish the discourse of Pius XII to the members of the 10th International Congress of Historical Sciences with an interpretation of the same document. Appendix II contains the complete text of Boniface VIII's *Unam Sanctam*.

FEDERICO O. ESCALER

MATRIMONIAL LEGISLATION

EL MATRIMONIO EN EL DERECHO CONÓNICO PARTICULAR POSTERIOR AL CÓDIGO. By Lamberto de Echevarría. Victoria: Editorial del Seminario. 1955. Pp. 419.

The study of comparative law is commonplace in the secular law schools of every nation. In the United States, for example, whose 48 separate states represent so many different jurisdictions, a course in the Conflict of Laws is a necessary part of every lawyer's training. Canonists of the Catholic Church, however, following the promulgation of the new Code of Canon Law in 1918, have been preoccupied with its interpretation and application and hence up to the present have not bestowed much attention on the study of comparative law within the Church itself. Consequently the work of Lamberto de Echevarría opens up a hitherto untouched source of inquiry, namely the particular legislation of Plenary and Provincial Councils and of Diocesan Synods throughout the Catholic world.

Not only is the author to be commended for his choice of subject matter but also for his manner of treating it. Wisely limiting himself to one title, namely the law of marriage, he has succeeded in offering us an interesting picture of the particular lines of development which the provisions of the Code of Canon Law have

taken when extended and applied by numerous ecclesiastical jurisdictions in widely differing circumstances.

A brief introduction explains the function of diocesan law and the extent and value of the sources to be used in the proposed study. Then for purposes of easier comparison, the various areas of the world are divided into groups based on a geographical pattern but with due regard for cultural and linguistic affinity. Thus Italy and Malta form the first group; France, Algeria and the French-speaking cantons of Switzerland the second, the Low Countries, the third, and so on. Within each of these groups, the laws of the various councils and synods are ordered according to the sequence of topics followed by the Code of Canon Law in the treatise on Marriage. This parallel ordering of topics within each culture group provides the reader with an easy method of comparison on any particular point. Thus if he wanted to know the norm for proclaiming the banns of marriage, he would merely look up the topic "*Proclamas*" in each culture group.

Within the body of the work, the author wisely refrains from any critical analysis, being content to summarize the laws on each point, and inserting verbatim an example from his sources which best illustrates the overall tendency or the ideal legislation on the point in question. These citations are in themselves very valuable for they put us in direct contact with the terms of the law under discussion. After thus proceeding through all the cultural areas for which sufficient sources were available, a final chapter of brief general conclusions completes the task, for which the author won first prize among all the doctoral dissertations submitted in the years 1953-1954 to the Faculty of Law of the University of Madrid.

A work of this nature, covering as it does so wide and varied a field of legislation inevitably displays some weaknesses. One might legitimately question the grouping of certain nations under one heading. In many respects Canada might be more easily linked with the United States rather than with Great Britain on the basis of cultural similarity. Some nations of the Commonwealth are under the Congregation for the Propagation of the Faith. Yet no indication is given of this rather important fact, so necessary for the interpretation of particular law. India is omitted entirely although a Plenary Council was held there only recently. In the section on Hispano-America, no mention is made of the Philippines, which could easily have been fitted into this section. It seems

strange that no copy of the First Council of Manila was to be found in all the libraries of Madrid, abounding as they do in Filipino source material.

In no group does the author achieve a complete coverage of all the extant sources. This fact is readily admitted and lamented. Even the Spanish sources investigated represent only 26 jurisdictions out of an existing 64, or approximately one-third. For all the countries of Latin-America, which comprise 227 ecclesiastical jurisdictions, the sources used cover only 19 widely scattered archdioceses and dioceses. Central European sources reveal an even greater disproportion between the jurisdictions cited and the wide area they are supposed to represent. Of the U.S. dioceses, only 8 sources are cited, which reflect the law of some 13 jurisdictions out of an actual 145 distinct dioceses. Of these none comes from the heavily Catholic areas of the Northeastern seaboard. Thus it is clear that the author's induction is far from complete, a fact readily admitted but perhaps too lightly considered when he judges his sources to be adequate for the areas they represent.

One laments too the poor editing of the text. While it is possible to overlook occasional misspellings of foreign names, yet many Latin citations are hopelessly garbled. Any revision of this book should take care to remove faults of this type.

Notwithstanding the unevenness of its sources, the merits of this work are apparent. First of all, the particular laws herein collected and compared reflect the diverse religious situations and customs in which they have been framed. A discerning reader can readily conjure up the problems they set out to solve. Thus any bishop or chancellor who is faced with some new development in his diocese might find suggestions for a solution in the chapters of this book. This is one of the more obvious advantages of all comparative studies in the field of law.

Not a few practices might with some adaptation provide a solution to some of our own local problems. Thus one notes the growing tendency almost everywhere for Bishops to confer general delegation to assist at marriages on all parish assistants (*vicarii cooperatores*), thus insuring the validity of all marriages on that score at least. Gaeta has introduced the practice of combining one oral proclamation of the banns with 8 days of affixing them to the Church doors in cities with a population of more than 5000 people. Bergamo takes up explicitly the question of the marriages

of Communists. This study shows an increasing number of dioceses enforcing the Instruction of the Sacred Congregation of the Sacraments issued in 1941 regarding the investigation of the parties to be conducted before the marriage. Such an enforcement is certainly to be desired in the Philippines, where in the majority of jurisdictions it is still non-existent. In Algeria, a Mohammedan wishing to marry a Christian must not only sign the usual *cautiones*, but also a promise to renounce polygamy. In some countries of Europe, those who court non-Catholics are to be warned immediately, and if they persist in their course, they are to be denied absolution. Of special interest are the steps taken in Mexico to rectify marriages by dispensing from stole fees at certain times of the year. These are only a few of the many interesting points contained in this study.

Finally the entire work demonstrates the fact that the provisions of the new Code of Canon Law have been gradually seeping down into the practical working life of the Church, albeit not with the same speed nor the same intensity everywhere in the world. Local conditions still present barriers to its full implementation. But provincial councils and diocesan synods have contributed much toward increasing its application, with immense benefit to the Church. We find illustrated in this painstaking study an example of the flexibility of the Church's law which, while always insisting on the fulfillment of the divine law, allows much in the way of local variation and with characteristic wisdom tries not to impose more on her children than they can bear, until gradually they may be enabled to carry out her salutary wishes to the full.

SAMUEL R. WILEY

BARE FEET IN THE PALACE

BARE FEET IN THE PALACE. By Agnes Newton Keith. Boston and Toronto: Little, Brown and Co., 1955. Pp. 370.

Mrs. Agnes Newton Keith has dedicated this most recent of her four books "to Juan de la Cruz, who will never read it."

Bare Feet in the Palace is a charmingly written review of things Philippine, supplemented by two chapters on Japan and