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Enforcement of Judgments and Liens in Virginia, Federal Regulation of Family Law

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BOOK REVIEWS

ENFORCEMENT OF JUDGMENTS AND LIENS IN VIRGINIA. By Doug Rendleman. The Michie Company, Charlottesville, Va. 1982. pp. xv, 417, \$35.00.

*Reviewed by J. Stephen Proffitt, III**

Collection practice has undergone a major transition over the past fifteen years. Once the ignored bastard by the mainstream of the bar, collection practice has survived and matured into a serious endeavor for a growing body of lawyers. Several reasons underlie this change. First, as society has become more transient and business relationships increasingly impersonal, businessmen and professionals have had to intensify collection efforts to maintain profit levels. Since legislation and supplementary case decisions have made debtor-creditor law a complex field, lawyers are frequently called upon to do collection work because of their expertise in using sophisticated legal procedures. Second, whenever the economy experiences a downturn or significant slowdown, the number of delinquent payors multiplies. When this occurs, more businesses discover the need to bring mounting collection problems to their lawyers. Once the routine of turning delinquent accounts over to the lawyer is established, it is likely to be one of continuing momentum. Third, lawyers have found collection practice to be an area that can be highly profitable, often requiring little of their time when it is addressed with sound procedures by a properly-trained staff. By example, a paralegal or secretary can frequently administer the bulk of a collection practice by utilizing an organized form system. Finally, as more and more lawyers vie for available work, collection representation has found its way out of the bar's closet and into the spotlight of services offered by many firms, both large and small. Today, lawyers who just several years ago would have scoffed at doing collection work eagerly usher these clients into their offices to explain the services that they provide.

Due to the growth of collection practice, many lawyers are now regularly confronting the complexity of the statutory and case law that govern this area. For the practitioner to be successful and obtain the result sought (getting the money!), it is essential that he have a working knowl-

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edge of the various legal remedies available, their respective degrees of effectiveness and practicality under the circumstances, and the defenses available to the debtor. No lawyer can do an able job for his collection client until he first understands the prejudgment utility of the attachment process and the mechanic's lien, the judgment enforcement tools (levy, garnishment, interrogatories, and the creditor's bill), and the sword of fraudulent and voluntary conveyance law. Likewise, it is important for the lawyer to be aware of the debtor's ability to defend on the basis of various state and federal exemptions, statutes of limitation, joint ownership of property, and bankruptcy.

Several books are available to inform and guide the Virginia lawyer through this maze of jargon and technicalities. Professor Doug Rendleman's *Enforcement of Judgments and Liens In Virginia* is one of the latest, and it is a particularly good one. The book was written for "the unsung hero of debtor-creditor practice—the new associate who upon joining the firm is handed the firm's file of uncollected judgments and told to earn his keep while he learns his way around the courthouse."¹ Nevertheless, the authors have avoided the temptation to compile a pure summary of black letter law, supplemented with forms, to quench the needs of thirsty neophytes. Instead, *Enforcement of Judgments and Liens In Virginia* utilizes a more balanced approach in which legal rules are nestled in an encompassing presentation along with pertinent "reasons, policies, and alternatives." On the one hand, the authors state that they hope the "book will be something more than a practice manual"²—and it is. It provides no forms for the practitioner's use, but it does contain the type of analysis and authoritative citation that one might wish to review were he preparing for a hearing, or writing an appellate brief. On the other hand, the book does provide answers to the practical questions likely to arise so as to enable the new associate to find the bridges spanning the numerous pitfalls that await him. Professor Rendleman observes that "a lawyer with this work and a set of forms should be able to operate the system."³ This practitioner agrees.

The book was a "group project" in which Professor Rendleman served as editor for a number of his Marshall-Wythe College of Law students who researched and wrote the entire work. The subject matter covers 374 pages of text spread over eight chapters. For the reader, the text flows smoothly across the spectrum of judgment and lien law as it progresses through chapters respectively addressing prejudgment attachment, enforcement of money judgments against personalty, garnishment, judgment liens and priorities, enforcement of judgment liens via creditors' bills, mechanics' liens, fraudulent and voluntary conveyances, and en-

1. D. RENDLEMAN, *ENFORCEMENT OF JUDGMENTS AND LIENS IN VIRGINIA* vii (1982).

2. *Id.* at xiv.

3. *Id.*

forcement of foreign judgments.

The writing is clear and understandable, even where the concepts within the subject matter are not. Descriptive examples are given in many instances to help clarify the more difficult concepts. The work strikes of a series of well-blended law review articles. Its combination of practical information communicated in a scholarly presentation should make it appealing to a broad range of readers.

This author has spent but a brief time in the practice of law and was particularly comfortable reviewing this book. In June, 1981, he stood in the shoes of the book's "unsung hero"—the new lawyer confronting the intricacies of Virginia's debtor-creditor law for the first time. Consequently, this author feels especially qualified to gauge the effectiveness of the work from the standpoint of one to whom it was directed. In short, the book succeeds in accomplishing its goals. Even reading the book for the purpose of writing this review, this practitioner found the precise answers to several of his own questions that had recently arisen in performing collection services. The book is thorough and well-written, and the principles stated are generally amply supported with authority. For the reader who will think about what he reads, the text provides the opportunity to gain a definitive insight into the structure and mechanics of the law. This practitioner readily acknowledges learning something of worth from each chapter. Furthermore, should one's memory lapse on some point, the book's organization and index make review a quick and simple task.

It should be emphasized that the book's utility is not limited to legal "beginners". On the contrary, any lawyer or judge would be well-advised to have this compact volume on his office bookshelf. It is a working reference in which the answers to the reader's questions are probably close at hand. Additionally, despite the numerous references herein to collection practice, the book should not be viewed as one limited to this use. Rather, any lawyer who works with judgments and liens in any area — tort, contract, bankruptcy, etc. — will find this work a beneficial one. As Professor Rendleman observes, "The law is technical. The creditor's attorney must learn to dot every i."⁴ This book assists the practitioner in learning to do exactly that. *Enforcement of Judgments and Liens In Virginia* should be a welcome addition to every lawyer's library, and it promises to yield a substantial return on a nominal investment.

4. *Id.* at ix.

FEDERAL REGULATION OF FAMILY LAW. By Kenneth R. Redden Charlottesville: The Michie Company, 1982. pp. xvi, 441. \$40.00.

*Reviewed by Peter N. Swisher**

For the past two hundred years, American family law matters have been largely subject to the control of the individual states.¹ Although federal courts are not *per se* prohibited from hearing domestic relations matters,² the United States Supreme Court has traditionally stated in dicta that federal courts ought not have jurisdiction in that area of the law.³

Nevertheless, within the past twenty years, federal regulation has become a crucial part of American family law: through recent judicial opinions protecting certain fundamental rights involving marriage, divorce, and abortion; and through various federal legislative and administrative enactments regulating family law generally. Indeed, the traditional prohibition against original federal jurisdiction in domestic relations matters has also come under attack.⁴

Kenneth R. Redden's recent work *Federal Regulation of Family Law* is thus a welcome addition to the family law practitioner's library. As is true of his other work with federal regulation,⁵ Professor Redden's *Family Law* is not a comprehensive scholarly treatise. Rather, the book is presented as an introductory practice-oriented work, with selected footnotes and bibliographies for further in-depth analysis. "The purpose of this volume," states the author, "is to present, for the first time, a complete treatment of the complex area of federal regulation of family law. . . . The text should prove equally useful to counsel in their office, judges on the bench, or professors in the classroom."⁶ This reviewer agrees with the author's assessment that the book is an extremely useful reference in the field of family law, and should be a part of the jurist's and practitioner's law library.

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1. *See, e.g.*, *Boddie v. Connecticut*, 401 U.S. 371, 376 (1971); *Maynard v. Hill*, 125 U.S. 190, 205 (1888).

2. *See* U.S. Const. art. III, § 2, cl. 1; 28 U.S.C.A. § 1332.

3. *See, e.g.*, *In re Burrus*, 136 U.S. 586 (1890); *Barber v. Barber*, 62 U.S. 582 (1859).

4. *See, e.g.*, *Wasserman v. Wasserman*, 671 F.2d 832 (4th Cir. 1982); *Bennett v. Bennett*, 682 F.2d 1039 (D.C. Cir. 1982); *Fenslage v. Dawkins*, 629 F.2d 1107 (5th Cir. 1980); *Lloyd v. Loeffler*, — F. Supp. —, 9 FLR 3027 (E.D. Wis. 1982).

5. *See* K. REDDEN & J. MCCLELLAN, *FEDERAL REGULATION OF CONSUMER-CREDITOR RELATIONS* (The Michie Company, 1982). Reviewed by Susan B. English in 16 U. RICH. L. REV. 915-919 (1982).

6. K. REDDEN, *FEDERAL REGULATION OF FAMILY LAW* v. (1982).

The book is divided into fifteen chapters: Marriage; Divorce and Full Faith and Credit; Alimony and Full Faith and Credit; Adoption; Child Support; The Supreme Court on Illegitimacy; Child Custody; Federal Habeas Corpus in Child Custody Cases; Bankruptcy; Housing Discrimination; Federal Tax Consequences of Divorce Payments; Contraception; Involuntary Civil Commitment of a Family Member; Abortion; and Pensions. Each chapter is further divided into numerous subtopics, and the over-all chapter arrangements are well organized and easily referenced.

Among the breadth and depth of the author's admirable coverage, however, there are certain limitations. In Chapter One, for example, in addition to marriage and impediments to marriage, the author also discusses religious divorces:

. . . federal courts have upheld statutes and decisions rendering some Islamic and Jewish divorces invalid. It seems possible, however that a federal or state statute could be found to lack the necessary state interest, and thus be held to be unconstitutional under the First Amendment.⁷

The United States Supreme Court, however, has recently re-affirmed that a strong nexus between a state's divorce laws and its domiciliaries is "of the utmost significance" and therefore would probably continue to control over any religious divorce.⁸

Another questionable presumption in Chapter One deals with Admiralty and Maritime Marriages, where the author questions whether 46 U.S.C. § 201 might not govern a marriage on the high seas.⁹ However, Professor Clark has previously stated that no American statute authorizing a ship's captain to perform a marriage has been found,¹⁰ and the ambiguous *Fisher* case mentioned by Professor Redden appears to create a type of common law marriage, rather than a marriage by federal statute.¹¹ Apart from these occasional presumptions, however, Chapter One is well-written and informative.

This reviewer was further disappointed when Professor Redden, in discussing foreign divorces in Chapter Two, chose not to make foreign-coun-

7. REDDEN, *supra* note 6, at 8 (footnotes omitted).

8. *See, e.g., Williams v. North Carolina [II]*, 325 U.S. 226, 229 (1945), *cited with approval in Sosna v. Iowa*, 419 U.S. 393, 407 (1975). *See also Chertok v. Chertok*, 208 A.D. 161, 203 N.Y.S. 163 (1924) (refusal to recognize Jewish religious divorce); *Hilton v. Roylance*, 25 Utah 129, 69 P. 660 (1902) (refusal to recognize a Mormon religious divorce). *Cf. Reynolds v. United States*, 98 U.S. 145 (1878) (bigamy case). *See also Avitzur v. Avitzur*, — N.Y. —, — N.E.2d —, 51 USLW 1137 (N.Y. Ct. App. Feb. 15, 1983) (religious divorce recognized on contract grounds).

9. REDDEN, *supra* note 6, at 24. The author quotes the case of *Fisher v. Fisher*, 250 N.Y. 313, 165 N.E. 460 (1929) as additional authority for this presumption.

10. H. CLARK, *LAW OF DOMESTIC RELATIONS* 39 (1968).

11. *Id.* *See also* 1 RABEL, *CONFLICT OF LAWS* 260 (2d ed. 1958); RICHMOND & HALL, *MARRIAGE AND THE STATE* 233 (1929). *Cf. Norman v. Norman*, 121 Cal. 620, 54 P. 143 (1898).

try divorces a subject of that chapter.¹² There is ample case law under principles of comity to make the subject of foreign-country divorces,¹³ as well as federal legislation in that area worth discussing.¹⁴ Perhaps the author can address this topic in a later supplement to his book, since the subject continues to be relevant to family law practitioners.¹⁵ Finally, the author might also incorporate in a supplement the fact that some federal courts are currently taking jurisdiction in various child custody matters,¹⁶ and the impact of this federal trend may well affect other areas of family law in the future.

These specific comments and other limitations, however, should not detract from the overall usefulness of Professor Redden's work, since he does present a good overview of his subject. Of special interest, for example, are his chapters on illegitimacy; bankruptcy as it relates to family law; housing discrimination; involuntary civil commitment of a family member; and family law pension planning.

In conclusion, this reviewer would recommend *Federal Regulation of Family Law* as a useful and welcome addition to any law library.

12. REDDEN, *supra* note 6, at 34.

13. *See, e.g.*, *Hilton v. Guyot*, 159 U.S. 113 (1894) (general principles of comity); *Harrison v. Harrison*, 214 F.2d 571 (4th Cir. 1954), *cert. denied* 348 U.S. 896 (1954); *Prudential Ins. Co. v. Lewis*, 306 F.Supp. 1177 (N.D. Ala. 1969); *In re Chong Jah Alix*, 252 F. Supp. 313 (D.C. Hawaii 1965).

14. *See, e.g.*, 18 U.S.C.A. § 1714 (Federal law declares it a crime to mail foreign divorce information with intent to solicit business).

15. *See, e.g.*, Annot., 13 A.L.R. 3d 1419 (1967 & Supp. 1982).

16. *See* note 4, *supra*. *See also* *Spindel v. Spindel*, 283 F.Supp. 797 (E.D.N.Y. 1968) (divorce controversy).

