

Cases on the Conflict of Laws (3rd Ed.) (Book Review)

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support Judge Seabury's findings. "The Magistrates Themselves," is the title of another interesting chapter. Here we have excerpts from the testimony given in the Seabury investigation by some of the magistrates respecting their qualifications for office and their appointment thereto. "Magistrate August Dreyer stated that, when his law practice dwindled, he explained his predicament to his district leader and demanded 'recognition' for his eighteen years of work for the Party. His leader agreed, and in due time, the appointment came. Edward Weil, who until his recent death was a city magistrate, was quite frank in stating that he got his appointment as a reward for his long service to the Democratic Party, after threatening to get out of the party unless he got 'recognition.'" We are told of the manner of appointment of Magistrates McQuade, Maurice Gottlieb, Earl A. Smith, Henry M. R. Goodman, Silberman and Brodsky. "Magistrate Norris enjoyed something of an advantage over other aspirants to the magistracy. She was not obliged to intercede with any district leader; she was herself a co-leader of the Tenth Assembly District, the other leader being George W. Olvany."⁵

What a sorry spectacle! But this is not all—nor indeed the most serious aspect of the problem. What is far more serious is the authority exercised by the district leaders after appointment. Professor Moley puts it neatly: "The notions of the district leaders as to magisterial fitness were quaintly direct, secure in a sort of medieval proprietorship over the little principality of their districts. Many leaders, it was shown, maintained an arrogant authority over those whom they had elevated to the magistracy."⁶ The removal by the courts and the resignation while under fire of a number of magistrates were the immediate consequences of the Seabury investigation. But they, of course, did not solve the problem.

It will be substantially solved when the appointing power—the Mayor—is vigilant in "The Search for Better Magistrates." They *can* be found.

I hope—and I have confidence—that Mayor-elect LaGuardia will find them.

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CASES ON THE CONFLICT OF LAWS. Third edition. By Ernest G. Lorenzen. St. Paul: West Publishing Co., 1932, pp. vii, 1118.

The work of the American Law Institute in connection with the Restatement of the Law of Conflict of Laws, commenced a few years ago and still in the process of completion, has resulted in a critical analysis of principles of Conflict of Laws, particularly by the law schools of the country.

The presentation of a new case-book is therefore timely and of considerable interest to the legal profession.

⁵ Pp. 220-230, quoted from the Seabury Report, pp. 31-44.

⁶ P. 230.

The 1932 edition of Ernest G. Lorenzen's *Cases on the Conflict of Laws* will be examined from the point of view of the recent developments in the law of Conflict of Laws. The author has long interested himself in this field of law, and has been one of the very few writers who have in the past prepared excellent case material.

The third edition of this case-book differs from the earlier editions in the arrangement of topics, the elimination of the earlier classifications, and the addition of new topics. For the reason that there is a possible conflict situation in almost every subject into which law might be classified, conflict of laws is coextensive with all law, and one problem for the instructor is what to exclude in the course. This in turn will be determined in part by the number of hours to be devoted to the course. In a seminar or post-graduate course it might be advisable to be guided by the principle of selecting fewer topics, but making an intensive and thorough study of the selected topics. This might mean omitting important topics, but the latter could be discussed in class in specially prepared reports made by the individual students.

The elimination in Professor Lorenzen's case-book of the subject of Domicile as a separate topic may well be questioned. This topic has long been the orthodox approach to the study of Conflict of Laws. The study of Domicile is particularly helpful in understanding some of the simpler conflict of laws situations and should be included in a case-book on Conflict of Laws.

Professor Lorenzen eliminates as a separate topic the subject of Procedure. In the earlier editions this chapter was devoted to a consideration of one basis of the application of foreign or local law to a conflict situation; namely, the distinction between substance and procedure, right and remedy. This distinction has been developed as a principle of Conflict of Laws, and it would seem helpful to students to study procedure as a special topic.

The new arrangement and classification of topics by Professor Lorenzen is generally an improvement over the earlier editions, particularly in the treatment of foreign judgments as part of the general subject of Jurisdiction of Courts. It might be advisable to treat the subject of Divorce as a problem in jurisdiction rather than separately under family law. Another improvement in the arrangement is the treatment of Torts and Workmen's Compensation Acts in one chapter.

In the past few years much has been written on the philosophy of law by scholars who have been interested in the nature of the sources of legal rules, particularly in Conflict of Laws situations. The writer has in mind several of the able articles of Professor Hessel E. Yntema and Professor Morris R. Cohen, appearing in various law journals. The writer feels that an introductory chapter in a case-book on Conflict of Laws might well be devoted to case material illustrating sources of legal rules in Conflict of Laws. This would serve as a realistic background for the subject and would be of assistance to a vital understanding of the more specialized topics.

In the meantime, law schools will feel grateful for Professor Lorenzen's untiring and able efforts in bringing down to date the case material underlying a study of the principles of Conflict of Laws.

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