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1937

### Law and the Modern City

Kenneth Craddock Sears

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#### Recommended Citation

Kenneth Craddock Sears, "Law and the Modern City," 32 Illinois Law Review 388 (1937).

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dence? But, and this is the important point, he does show that the *role* of the *pax Dei* and *treugae Dei* in developing a genuine public order in Normandy has been underemphasized.

With the morass of the continental background now behind him, the last chapter on "Anglo-Saxon Institutions and Norman Justice" is perhaps the happiest of the entire book and augurs well for the ensuing volumes. Advocates of a pre-Conquest English feudalism, paralleling conditions on the continent, will not easily overthrow Goebel's position upholding the special insular situation (cf. pp. 358-59), but the continental influences which it is the purpose of this book to evaluate and establish become actively operative and transform the legal scene in England under the first Norman kings. The scope and method of this transformation is discussed in detail. A strongly centralized royal power grants out with scruple and care such rights as inhere in the privileges of *sac* and *soc*, the intermediate grants of *toll*, *team*, and *infangtheof*, and occasional extensions of the royal prerogative *forisfactura* (p. 391).

In my opinion, this work will not meet with complete agreement though it is a strong challenging presentation; nor is it by any means definitive, for many areas remain to be explored. Nevertheless, it constitutes a positive contribution that will have to be reckoned with and provides many new and suggestive avenues of approach to a very difficult field. The Legal Research Committee of the Commonwealth Fund has instituted its programme of publication with a valuable piece of research, and all students of legal history will look forward to be its continuing beneficiaries.

FLOYD SEYWARD LEAR.\*

LAW AND THE MODERN CITY, by Barnet Hodes.<sup>1</sup> Chicago: Reilly and Lee. 1937. Pp. 107. \$1.00.

The general thesis of this group of essays is that municipal corporations, such as the City of Chicago, are in an unfortunate position in our law and that something should be done about it. The author

rejects the idea of creating city states; he toys with the idea of a municipal sovereignty thereby creating a triple rather than a dual sovereignty in this country. He is very strong for the home rule idea and he warns against any false home rule. To use the author's words: "When we discuss 'home rule' here we mean the power granted to any city to draft and amend its own charter. In that way it may control its own destiny with reference to municipal affairs today and in the future. Anything less cannot be considered true home rule." However, Mr. Hodes also makes it clear that home rule does not mean that the state must entirely abandon the government of individuals living within cities. Accordingly it seems that the program is one for home rule to the largest practical extent.

The striking weakness of Mr. Hodes' essays is that he does not set forth any plan of obtaining home rule for Illinois cities and his book is directed mainly to the consideration of Chicago's problems and the Illinois legal precedents. It is possible that he thinks that home rule in Illinois is to be obtained by a legislative grant. Apparently, however, there is no dispute that such a grant would be an unstable basis because any subsequent legislature could amend the law making the grant. If this is true, then the only way in which "true" home rule can be secured in Illinois is through provisions inserted into the Illinois constitution. It is curious how Mr. Hodes seems to avoid almost entirely any discussion of the Illinois constitution and of the greater problem of securing an amendment to or a revision of the Illinois constitution. Surely he must recognize that this is the essence of the problem. Why then does he avoid the issue? Any man's guess is as good as that of the reviewer. Is it because Mr. Hodes is an appointee of Mayor Kelly who, together with his political ally, Robert R. McCormick of the powerful Chicago Tribune, has done more in recent years to prevent the enactment of legislation which would make it possible to modernize the Illinois constitution than possibly any other person within the state? During the period that Mr.

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Hodes has been Corporation Counsel under Mayor Kelly, Governor Horner has been in favor of legislation that probably would open a new chapter in Illinois constitutional history. At the present time the people of Illinois are waiting for a call for a special session of the Illinois General Assembly at which Governor Horner is expected to authorize the consideration of a resolution to assemble a constitutional convention. If such a convention can be secured it is entirely possible that most of the complaints set forth in Mr. Hodes' book will be removed as far as Illinois is concerned. But how does Hodes declare himself on the real issue?

KENNETH C. SEARS.\*

CASES AND MATERIALS ON THE CONFLICT OF LAWS, by Ernest G. Lorenzen.<sup>1</sup> St. Paul: West Publishing Co. 1937. Pp. xxvi, 1138. \$6.00.

Since the arrangement of the materials in this fourth edition of Professor Lorenzen's well-known casebook is with slight changes the same as in the third edition, comment in this review will be devoted primarily to noting what additions and alterations have been made rather than to a discussion of the structure of the book as a whole. One notes first of all that "Domicile" has been restored as a separate topic, the cases on that subject now being gathered together as the second section of the introductory chapter. This has been done, we are told by the Editor, at the request of users of the book. A comparison with the third edition shows that not only have the cases on Domicile been gathered together, but the number of cases has been materially increased. A count shows that—aside from two cases inserted to bring up the problem of "qualifications" and "renvoi"—a majority of those now printed were not in the previous edition at all. Apparently when he prepared the third edition the learned Editor, acting avowedly under the influence of the so-called "functional approach," did not merely, as his preface indicated, distribute the cases on Domicile under "the particular fact situations to which they relate," but dumped the baby

out with the bath by eliminating nearly all cases dealing with the subject. This was of course an unfortunate procedure and users of the book will be glad to see once more a reasonably adequate collection of cases on the subject. Whether or not these should be collected in one place, as now, or scattered in accordance with the procedure described in the preface to the third edition, is of course purely a question of practical pedagogy. One does not necessarily have to teach law "legalistically" or "conceptually" rather than "functionally" even though he deals with the cases on Domicile as a group. Indeed, such an arrangement may be made a valuable device to bring out the shifting meaning of the term as courts pass from one type of fact-situation to another, and at the same time may enable the instructor to raise the question of the effect upon courts of the assumption so commonly made that the term "Domicile" has a single meaning no matter what the problem up for solution may be.

A more important change consists in the insertion of a general introduction which gives a brief history of the Conflict of Laws and a general survey of the subject, and of introductory notes to each chapter and section. Other changes are the addition of a larger number of excerpts from law reviews, as well as summaries of dissenting opinions, and a number of text notes. The statement in the Preface that the "provisions of the Restatement of the Conflict of Laws have been incorporated in detail with reference to all parts of the subject" is hardly borne out by the book's contents. For example, in the section on Domicile the contents of only Sections 19 and 28 of the Restatement are given, although other relevant sections are cited by number in several instances.

The attempt is made to deal with "Qualifications" and "Renvoi" in the chapter on "Domicile," by the insertion of two cases only,<sup>2</sup> accompanied by a few lines from Beale's Treatise and a longer excerpt from Professor Falconbridge's valuable article in 53 *Law Quarterly Review*. It would seem that if these difficult

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<sup>2</sup> In re *Annesley* [1926] 1 Ch. 692 and *Matter of Tallmadge*, 181 N. Y. R. 336 (1919).