

REVIEWS AND NOTICES.

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LEADING CASES IN CONFLICT OF LAWS.*

As a case-book can only deal with a few leading principles and the practising lawyer wants more than that, the appeal of a book of leading cases is usually limited to the students for whom it was principally intended. But this is less true of the subject of conflict of laws, where the leading cases illustrate almost every rule with which the practising lawyer is normally concerned, and these rules can best be understood by direct reference to the cases in which they were enunciated.

A case-book on conflict of laws has a still wider appeal in that there is no branch of law which is more redolent of life in all places and circumstances and which so arouses the imagination by the invariably dramatic quality of the events which give rise to each case. In the first four cases cited in this book, we see the Secretary of State for Foreign Affairs, Danish and British merchants, the Queen of Holland and a French slave ship involved in disputes over matters arising in Zanzibar, Denmark, Holland and Sierra Leone which are determined by references to Grotius and Vattel, and to the Law of Nations and Mohammed. Enough is told of the facts in each case to make the quotations from the judgments interesting to the casual reader.

The author's method is, in his own words:—

(1) To select from the reports the leading case in each of the more important topics,

(2) To extract the principle from each case and state it as a headnote thereto.

(3) To state sufficient of the facts to make the point clear, but excluding all other facts as confusing.

(4) To give all the portions of the judgments, in the Judge's own words, having reference to the point involved, emphasising in thick type the most important passages, but excluding all other portions of the judgments.

(5) To give footnotes explanatory of individual cases, where such appeared necessary.

The cases themselves are well selected and the headnotes contain clear and concise statements of each rule. Occasionally one might

*By W. N. Hibbert, LL.D. of the Middle Temple, London; Sweet & Maxwell Ltd. 1931. Price 21s.

prefer Dicey's statement of the same rule, as in his Rule 8 ("Conflict of Laws," 4th Edition), page 109:—

(1) The domicile of origin is retained until a domicile of choice is in fact acquired.

(2) A domicile of choice is retained until it is abandoned, whereupon either (i) a new domicile of choice is acquired; or (ii) the domicile of origin is resumed.

to Hibbert's headnote at page 17:—

A domicile of origin continues until a domicile of choice is acquired. It cannot be destroyed but only suspended.

The case cited does not justify the reference to a domicile being "suspended." Indeed, it is difficult to see where the author can derive authority for this statement.

For the most part, however, Hibbert's headnotes are in strict accord with the principles laid down in the cases and frequently are to be preferred to Dicey's Rules. Thus, we have Hibbert's rule, page 23:—

Statements of intention as indicia to determining domicile must be examined by considering the persons to whom and the purpose for which and the circumstances in which they were made, and they must be carried into effect by conduct consistent with the declared intention.

which is greatly to be preferred to Dicey's Rule No. 16 at page 132 which is very much too broad:—

Expressions of intention to reside permanently in a country are evidence of such an intention, and in so far evidence of domicile.

The only Canadian case which appears to have been cited is that of *Brassard v. Smith*, which appears at page 76. The case of *Attorney-General v. Cook*¹ might have been mentioned as enunciating the rule that certainly for purposes of divorce and probably for all other purposes, the domicile of a person settled in one of the Provinces of Canada is that particular Province, although the Dominion Parliament has legislative power to dissolve the marriage.

The author's method has required the use of several different types. Sometimes we see ten different types on a single page and the result is a page which is not easy to read and harder to look at. But the book is of convenient size and arrangement, with table of contents, index of cases and general index.

Montreal.

BROOKE CLAXTON.

¹ [1926] A.C. 444.

THE GOVERNMENT OF TRINIDAD.*

This second edition of Mr. Reis's work has been thoroughly re-written and re-arranged. It provides a general description of the Government and Constitution of Trinidad, including the new Legislative Council established by the Trinidad and Tobago (Legislative Council) Order in Council of April 16th, 1924. The book, in the words of the author, "makes no pretence at being a text-book"; it lacks the list of cases that usually belong to a work of this sort, and for the most part contents itself with setting out the main principles of the constitutional law of the Colony and describing the composition and functions of the various organs of government. But the material is well ordered and the treatment scholarly, and affords the reader a clear picture of the operation of English constitutional principles in one of the more advanced Crown Colonies.

There is a remark in the Preface which will appear strange to anyone familiar with the legal theory of self-government as practised in the Dominions. The author, after claiming to see the dawn of self-government for Trinidad just over the political horizon, declares that it would imply the transfer of the legal sovereignty from the King and the King in Parliament to some person or body of persons in the Colony. While it is true that self-government would necessitate the abandonment by the Crown of its present right to legislate for the Colony by Order-in-Council—a right expressly reserved in the Order creating the Legislative Council in 1924—it is of course not true to say that the legal sovereignty of the Imperial Parliament must be also handed over. Such a transfer is impossible to conceive, for what the sovereign grants it may recall; and self-government in Trinidad, if it comes, will have to depend upon the constitutional convention which supports it in the Dominions, namely that Imperial legislation for a Colony is only passed at the request of the Colony.

The Law of the Trinidad Constitution has its lighter side. The old Spanish custom of "carnaval" has survived and is officially recognized in the Colony, a legislative ordinance permitting the Inspector-General to prescribe by regulation the conditions under which persons may appear masked or otherwise disguised, and also "what substances may be thrown by or at persons" during the festival. We would have been grateful for the existing list of lawful missiles.

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* *The Government of Trinidad. (Law of the Constitution).* By Charles Reis. 2nd edition. Philadelphia: W. L. Friend, Jr., 1931.

AMERICAN INTERNATIONAL CONFERENCES.*

This valuable collection of the Conventions, Recommendations, Resolutions, Reports and Motions, adopted by the first six International Conferences of the American States, is edited by James Brown Scott, the distinguished Director of the International Law Division of the Carnegie Endowment, who also contributes an interesting introduction. The Editor pays a tribute to Simon Bolivar, the Liberator of Peru, who in 1824 invited the new Governments of Spanish America to send representatives to a Conference at Panama, when he ventured the prediction that, "the day our plenipotentiaries make the exchange of their powers will stamp in the diplomatic history of the world an immortal epoch." This Conference, held in 1826, led to a treaty of alliance between the new Spanish American Republics. However, it was not until 1889 that the first International Conferences of American States, at which the Government of the United States was represented, met at Washington on the invitation of James G. Blaine, then Secretary of State for the United States. This book contains a report of the proceedings of that Conference and of the five gatherings which have followed, at Mexico City in 1901, at Rio de Janeiro in 1906, at Buenos Aires in 1910, at Santiago in 1923, and at Habana in 1928. The Canadian reader will be impressed with the variety of subjects which have engaged the study of those attending these important Conferences, and will realize that, although political arrangements have rarely followed the Conferences, very important conventions on such subjects as Private International Law, Commercial Aviation, Status of Aliens, Maritime Neutrality and the Duties and Rights of States in the event of Civil Strife have been adopted. We feel that the Carnegie endowment for International Peace is to be congratulated upon having put in a convenient and accessible form the result of the useful labours of many eminent jurists and diplomats.

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**International Conferences of American States, 1889-1928*. Edited with an introduction by James Brown Scott. New York: Oxford University Press, 1931.