

LETTER TO THE EDITORS

June 8, 1970

Board of Officers
University of Pennsylvania Law Review
3400 Chestnut Street
Philadelphia, Pa. 19104

Dear Sirs:

In an article entitled "Choice of Law in Interstate Torts" published in the December issue of your review,¹ I made the observation that "[r]easoned opinions about the merits of a particular rule . . . might induce legislatures to amend noxious domestic laws."² The belief that the conflict of laws might well serve as a vehicle for law reform had been expressed earlier by Professors Ehrenzweig and Freund.³

The suggestion was perhaps based more on speculation than on fact, but it has lately received support from the action of the Vermont legislature in repealing the local guest statute. This action was apparently motivated by the criticism levied by Judge Kenison of the New Hampshire Supreme Court in the celebrated case of *Clark v. Clark*.⁴

This development has been noted in the April/May issue of *TRIAL* magazine. Under the heading "Vermont Repeals Harsh Guest Law" the following statement appears:

The repeal action came after the Green Mountain state felt it had been "insulted" when the Supreme Court of New Hampshire, in a 1966 case, refused to apply the Vermont guest statute in a conflict of laws situation.⁵

Professor Robert Joost, who wrote this item, has confirmed that members of the Vermont Judiciary Committee have indeed been sensitive to Judge Kenison's opinion. Although it may be impossible to prove

¹ 118 U. PA. L. REV. 202 (1969).

² *Id.* 234.

³ A. EHRENZWEIG, *PRIVATE INTERNATIONAL LAW* 102-03 (1962); Freund, *Chief Justice Stone and the Conflict of Laws*, 59 HARV. L. REV. 1210, 1216 (1946).

⁴ 107 N.H. 351, 222 A.2d 205 (1966).

⁵ 6 *TRIAL*, April/May 1970, at 5.

causation, this coincidence of judicial and legislative action is too remarkable to be accidental.

In view of the continuing debate concerning the proper rules and methods to be followed by judges in deciding conflicts cases,⁶ I believe it would be useful to convey the foregoing information to your readers.

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⁶The shockwaves of the conflicts revolution and convolution continue unabated, even in the epicenter of the upheaval. See *Tooker v. Lopez*, 24 N.Y.2d 569, 249 N.E.2d 394, 301 N.Y.S.2d 519 (1969). For characterizations of the methodology employed by the author of the majority opinion in this case compare Baade, *Judge Keating and the Conflict of Laws*, 36 BROOKLYN L. REV. 10, 40 (1969) ("splendid statesman and craftsman of the law"), with Keefe, *Are Guest Statutes Dead or Only Moribund?*, 55 A.B.A.J. 1185 (1969) ("[t]he Indian rope trick is old hat to him").