
PREFACE TO THE NINTH EDITION

The teacher of Conflict of Laws already knows that it is a fascinating course. The student is about to find out. It is, moreover, one of those courses in which to be “theoretical” is to be “practical”; the supposed war between those two qualities is not even a skirmish in Conflicts law, where changes have come (and will no doubt continue to come) so quickly that the only preparation is understanding, not memorization.

This book is organized to present the heart of Conflict of Laws first: choice-of-law problems. After providing a general overview of the subject, the “traditional” approach to choice of law is exposed; in the second chapter, we turn to the struggle of the courts and the commentators to come up with a more responsive (but not unduly complicated) approach. The remaining broad topics — constitutional limitations on choice of law, personal jurisdiction, recognition of judgments, choice of law in the transnational setting, choosing legal regimes, and choice of law in complex litigation — are considered in light of the wisdom derived from consideration of the basic choice-of-law problems. We have attempted to make the materials short enough so that they really can be covered in a three- or four-credit course, but we have all experienced the temptation to slow down and inspect in detail some of the particularly intriguing questions that are raised in conflicts. We recognize that in most law schools, the students will have already covered personal jurisdiction and (to some extent) judgments enforcement in their first-year Civil Procedure course. Our chapters on these subjects would probably be more detailed and theoretically probing if that were not the case.

Questions and comments at the end of cases or case groupings tend to be brief, concentrating on the problems raised by the principal cases, rather than adding notes about other cases. Cases have been significantly edited to eliminate citations. Thus, they do not read like real case reports, but they do read somewhat more smoothly. Citations are retained on some occasions when they refer to other important cases, when they refer to writings of important conflicts scholars, when they cite the editors of this casebook, or otherwise seem worthy of retention. Footnotes in cases and other quoted material have generally been eliminated without the use of ellipses. Those that have survived editing retain their original numbers, while the editor’s footnotes employ asterisks and daggers.

A word is needed about where this book fits in the general debate over the foundations of choice-of-law theory. Readers of this Preface probably already know — indeed, probably know much more than they care to — about the contentious nature of the academic literature. The name of one of the authors of this book has become virtually synonymous with the counter-revolution in choice-of-law theory that has attacked the so-called modern school. But hers is almost certainly a minority position nowadays and she is well aware of this. All of the authors of this edition are committed to open dialog and open minds; we have tried (to the

degree humanly possible) to make our arguments on the merits, to take the other side's arguments seriously and honestly, and to let the reader be the judge. Occasionally the opinion of an editor may show through in questions and comments, but many questions that may seem to present a point of view are asked in the spirit of the devil's advocate. If you think that we are deluded about our own abilities to be objective, please don't give up on us — just write us angry letters!

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