

# Cases and Other Materials on Conflict of Laws (Book Review)

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is short and sketchy. At this point, the author might have discussed, with value, publication and the effect thereof prior to copyright.

It would take a great deal more than merely the study of this book to know how to prepare properly the documents involved in the registration of a patent. It might be said, however, that the author does not intend the work to be used by a layman, acting as his own attorney. From the standpoint of a book intended to be used for the purpose of making understandable the general theory and practice of protecting business ideas, the author's work is valuable. This is especially true because it is written in a clear and understandable style. In short, it is a non-technical presentation of technical facts which should be known by everyone dealing in the field of trade mark, patent and copyright law.

JOHN P. MALONEY.\*

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CASES AND OTHER MATERIALS ON CONFLICT OF LAWS. By Elliot E. Cheatham, Noel T. Dowling and Herbert F. Goodrich. Chicago: Foundation Press, Inc., 1936, pp. xlv, 1148.

One of the legal landmarks in the United States is Justice Story's "Commentaries on the Conflict of Laws" published in 1834. The one hundredth anniversary of this publication was celebrated a few years ago. Among the fitting tributes made to the scholarship of Justice Story should be mentioned Ernest G. Lorenzen's article in the *Harvard Law Review*.<sup>1</sup> This article was a critical estimate of Justice Story's contribution to the statement of the law of Conflict of Laws. The conclusion of the author, himself an outstanding scholar in the field of Conflict of Laws, that the law has changed very little since Story's statement of it, should provoke a smile among those who watched the American Law Institute work feverishly for eleven years on a Restatement of the Law of Conflict of Laws. The Restatement was finally adopted and promulgated on May 11, 1934, in time to be presented as a tribute to the work of Justice Story on the occasion of the one hundredth anniversary of his commentaries. The Restatement bears the marks of the Reporter in charge of the Committee on Conflict of Laws—Joseph H. Beale. It is not too early to speak in terms of highest praise of this great pioneer and scholar in the field of Conflict of Laws, and as a tribute both to Justice Story and himself, mention must be made of Professor Beale's three-volume *Treatise on the Conflict of Laws* published in 1935. The volumes represent the work of a lifetime devoted to the law of Conflict of Laws. This fact coupled with the integrity and scholarship of the man makes Professor Beale's work another landmark in the history of law in the United States.

It was to be expected that this considerable interest in Conflict of Laws would find some expression also in a new case book for the study of Conflict

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<sup>1</sup> Lorenzen, *Story's Commentaries on the Conflict of Laws—One Hundred Years After* (1934) 48 *HARV. L. REV.* 15.

of Laws in law schools. The announcement of the publication of "Cases and Other Materials on Conflict of Laws" is the result of this recent reawakened interest. Professor Goodrich, one of the co-authors, is known to students and lawyers as the author of the "Handbook on the Conflict of Laws."<sup>2</sup> He was also one of the Reporters in the Restatement, and a case book by him had been announced for publication several years ago. Apparently he joined with Professors Cheatham and Dowling in the present work.

For the pioneer work on case material, former students are of course indebted to Professor Beale. The impress of his influence in this field, not only on Professor Lorenzen, who published a case book in 1924 that has gone through one revision with a second one announced for the near future, but also on the present authors, is unmistakable. This is quite as it should be. Fortunately for students of this subject, the pioneer work was ably set and the followers of Professor Beale, themselves able scholars, have proceeded along the path so carefully laid out by Professor Beale and have necessarily improved upon him. The present case book is undoubtedly the best collection of case material on conflict of laws, particularly in the organization and arrangement of the material, the provocative notes and comments, the inclusiveness of the topics, and the care and thoroughness of the work evidenced throughout the book. This work makes the study of the subject easier and more pleasant both for the law student and the law teacher.

Where Professor Beale in his case book presented the subject of Jurisdiction under a fourfold classification, the present authors have presented a more analytical classification involving about fourteen sections. Professor Beale starts his presentation of the subject of Conflict of Laws with a study of Domicil. Professor Lorenzen approached his study in the first edition of his case book in the same way. In the revision of his case book the subject of domicil was omitted entirely, and the present authors likewise do not take up the subject of domicil separately. It is, of course, mentioned whenever it has some direct bearing on the subject of Conflict of Laws.

Where Professor Beale presented the question of Remedies and Procedure as a special topic, Professor Lorenzen in the second edition of his book broke away from this presentation. The present authors improve upon both Professors Beale and Lorenzen in their treatment of Procedure. It becomes part of the chapters called, "The Internal Law of the Forum", and "Sources and Choice of Law". The latter chapter is an original and vital contribution to the study of Conflict of Laws and appears nowhere in any previous case book. This chapter bears the impress of Professor Cheatham's work and presents material and cases showing to what extent the sources of conflict of laws rules are found in International Law, the Federal Law as exemplified in the Constitution of the United States, United States Statutes and Treaties, and that queer phenomenon—Federal Common Law, and finally in the law of the several states, both common and statutory.

The student might have expected the chapter on Sources of Law to be the first chapter in the book instead of the sixth. Why the authors chose to treat this aspect of the subject after discussing Jurisdiction, Foreign Judgments and

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<sup>2</sup> Published in the Hornbook Series by the West Publishing Co. in 1927.

Commercial Arbitration, this writer is unable to say. Suffice it to say that it is in many respects the most valuable chapter in the case book.

In the arrangement of topics, the authors present the material on the subject of Foreign Judgments immediately after the presentation of the subject of Jurisdiction. Such would appear to be the better order, from a classroom point of view, in which to study the question. This arrangement is an improvement upon that of both Professor Beale and Professor Lorenzen. The question of jurisdiction in divorce actions is presented by Professor Beale as part of the subject of Jurisdiction. The authors of this case book treat the question as part of the subject of Family Law, apparently accepting Professor Lorenzen's classification. From a classroom point of view Professor Beale's classification is preferable.

The case of *Harris v. Balk*<sup>3</sup> is treated primarily as a question of jurisdiction, both by Professors Beale and Lorenzen. The authors of this case book include the case in the chapter on Intangible Property. The problem of classification of material in a case book on Conflict of Laws must permit of individual preferences, so that the instructor who has long been accustomed to find *Harris v. Balk* among the Jurisdiction cases, will, in using this new case book, take the case out of its context and include it among those on Jurisdiction.

A review of this book cannot omit a reference to Chapter XVII which is called "Planning as to Conflict of Laws Transactions." This consists of about four and one-half pages of practical advice and caution to lawyers and legislators in considering the possible conflict elements in law. The publishers of the book have made this chapter the basis of a special appeal to attorneys to become acquainted with the book.

The work is decidedly meritorious. Students should enjoy digesting the material presented to them so palatably. Teachers will, of course, find the collection of cases brought down to date. The publishers and printers have done a commendable job, for the cases can be read without physical strain. Teachers will appreciate this fact by comparing the book with the formidable set-up of Professor Beale's old case book. The writer expects the case book to be universally received with much enthusiasm and real appreciation of the splendid work of the three authors.

BENJAMIN HARROW.\*

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THE LAW OF CADAVERS AND OF BURIAL AND BURIAL PLACES. By Percival A. Jackson. New York: Prentice-Hall, Inc., 1936, pp. lxxv, 734.

The author, who has long been a distinguished member of the New York Bar, has produced a treatise which for many years will undoubtedly remain the standard work on the subject of the law pertaining to the care and disposal of bodies of deceased human beings, and to the establishment and maintenance of burial places.

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<sup>3</sup> 198 U. S. 215, 25 Sup. Ct. 625 (1905).

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