1961

Conflicts of Laws (January 26, 1961)

William & Mary Law School

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CONFIDENTIALITY TREATY 2 P.M., Thursday, January 26, 1961

Three hours - six questions or groups of questions. Unless indicated otherwise, you may assume that only American states are involved.

1.
(a) Among countries having the full revoil, country A is the forum and the place of execution of a contract. Country B is the place of performance. Under the law of A a contract is governed by the law of the place of performance. Under the law of B a contract is governed by the law of the place of execution. What domestic law will be applied?
(b) Transactions in state B between citizens of states F and G give rise to a dispute in forum state A as to title to a warehouse receipt issued by a corporation of state C. The receipt is in the possession of a bank in a foreign country, Z, which for present purposes has the same conflict-of-laws rules as some of the American states involved. What domestic law will be applied?
(c) An automobile is mortgaged by X to Y in state A by mortgage duly recorded in state A but never recorded in any other state. Without the knowledge or consent of Y, X moves the car to state B, and there sells it to P, a bona fide purchaser. While P is driving the car in state C it is discovered by Y, who attaches it and brings suit to foreclose his mortgage. What decision?

2.
(a) An appeal is taken in a suit in state A. An appeal bond is executed by X as surety in state B. In order to induce X to act as surety Y in state C gives X indemnity bond against liability on the appeal bond. The case is affirmed on appeal, and X pays the amount of the appeal bond. X then sues Y in state D to recover upon the indemnity bond. What domestic law will be applied?
(b) Suit is brought in this country to recover damages for a tort committed in a foreign country. How will the rate of exchange be worked out?
(c) Y builds a dam in state A which backs up water and injures land belonging to X in state B. Y lives in state C. What domestic law will be applied, and where will injunction (if X is entitled to it) be obtainable, assuming that personal jurisdiction over Y is obtainable in each of the three states?

3.
(a) Star Corporation, incorporated in state A, enters into contract with Y, who lives in state B, to handle business for it in state C, it being doubtful under the facts whether or not Y is an independent contractor. While carrying out the terms of the contract in state C Y injures X. X sues Star Corporation in state D. What domestic law will be applied?
(b) The cars of Y and X collide in a highway accident in state A. X is fatally injured, and dies in state B. Suit is brought against Y in state C to recover damages for X's death. All the states have statutes providing for actions because of wrongful death, but the statutes vary in their terms. Which statute will be applied?
(c) X, living in state A, executes in state B an application for insurance with I Insurance Company, incorporated in state C, with a headquarters in state D, where losses are payable. The application is accepted by the company in state D, and the policy delivered to X in state A by the company's agent. X moves to state E, and there makes a loan from the company with his insurance as security. In litigation in state F over the loan which domestic law will be applied?

4.
(a) X, a citizen of state A, holds a deed of trust, securing note of Y in that amount, upon land in state B owned by Y, a citizen of state C. X sells the land at trustee's sale, following non-payment of the debt, and it is bought in state B by a real estate development company for $60,000. X sues Y in state D for the balance of $40,000, Y being personally served within the state. The court in state D enters judgment in favor of Y upon the ground that a statute of state D provides that no court in D shall have jurisdiction to enter a deficiency judgment on an encumbrance. X then sues Y in state C, process being delivered to Y in state E in
accordance with statute of state C. What decision?
(b) Explain "lesser of the two".
(c) H claims to be the widower of W, deceased. A court in state B entered a divorce decree in favor of W before her death in a suit in which H was served by publication and entered no appearance. The evidence is conflicting, and it is a doubtful question, whether the domicil of H and W at that time was in state A or state B. Administration of a portion of W's estate is going on in state A. The probate court in state A recognizes the divorce decree in state B, notwithstanding H's contention that there was no jurisdiction, and holds that H can not share in the estate. Later a court in B decides that there was no jurisdiction to enter the divorce decree, and sets it aside. H moves to re-open the administration proceedings in A, which in the meantime have been closed. What decision?

5.
(a) X claims title to an automobile, based upon a judgment of a court in state A, where the car was then situated, and brings suit in state B, where the car is now situated, to recover possession from Y. Y gets the court in state B to decide that the court in state A did not have jurisdiction to enter its judgment. X later sues Y in state C, where the car is now situated, getting personal jurisdiction over Y, and the court in state C decides that the court in state B did not have jurisdiction to enter its judgment. A question arises in a court in state D as to whether X has title to the car. What decision?
(b) H and W, husband and wife, living in state D, execute in state A contract with X providing, among other things, that W will act as surety for her husband without personal obligation and will deliver to X in state B to secure her obligation deed of trust to land in state C which is the separate estate of W. Under the contract services are to be rendered by X in state B, and he is to be paid for them in that state. Suit is brought on the contract by X against H and W in state D. What law will govern each aspect of the situation, and what will be the position of W?
(c) S is duly adopted by X as his son in state A. Y, X's brother, dies domiciled in state B without widow or children leaving real and personal property in state B. What law will govern?

6.
(a) X sues Y in suits in 15 states for damages because of breach of X's right of privacy through publication in each of the states of a photograph taken by Y in state A. What law will govern, and how would you advise one holding such a photograph, not made public, but which will bring him large returns if published, to proceed?
(b) H and W, husband and wife, and X all live in state A. H sues X in state C for alienation of affections through acts done while W and X were vacationing in state B. What law will govern, and what strong argument could you make that another law should govern?
(c) X lives in state A. His wife, W, secures divorce decree against him in state A, and, in addition to alimony, he is ordered to pay W $10,000 in a lump sum for the support of their minor child, S, until S is of age, which X does. The custody of S is awarded to W, and they move to state B. While X is in state B he is personally served with process in suit brought by S, now 15 and destitute, through next friend, in accordance with the practice in B, to secure support from X. What decision?