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## Conflict of Laws (May 1971)

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## CONFLICT OF LAWS

May, 1971

Mr. Santoro

### Question 1 - 30 Points

John Adams is a botanist who has been residing in New York all his life. He is a dues paying member of the Knickerbocker Nature Study Society (hereafter called Society) which is a non-profit corporation incorporated under the laws of the State of New York with its principle office in Manhattan. The Society was organized to promote nature study and to this end it operated a summer camp for adult nature lovers in New York's Adirondack Mountains. In 1968 Adams enrolled for a two week session. He was taken in a camp truck with fellow campers to visit Mt. Greylock, tallest peak in the Berkshire's in Massachusetts. After lunch, at the foot of the mountain, the truck driver carelessly put the truck into reverse and in so doing ran over Adams and one Joshua Ball, a local guide, while they had stooped to observe an unusual species of toadstool. Adams sustained serious injuries and was hospitalized for two months at the City Hospital in Pittsfield, Massachusetts. Ball was killed immediately.

In June, 1962, Adams brought an action for damages against Society but the Trial Court granted Society Summary Judgment after it showed that under Massachusetts law a charitable corporation is not liable for its servants torts. For several years the Massachusetts Legislature has introduced legislation which would remove the immunity for charitable organizations but each time the legislation has been defeated because of a pervasive fear that all charities would quit the State. Under New York law, Society would have no immunity; so if Adams had been allowed to show the driver's negligence, the corporation's charitable nature would be no defense to it. New York had abolished common law immunity for charitable corporations in order to protect injured parties from receiving no compensation for their injuries.

Mrs. Ball had at the same time, brought an action into New York based on wrongful death. Society, in addition to pleading the Massachusetts law on charitable immunity, pleaded the Massachusetts Wrongful Death Act which restricted recovery from a minimum of \$3,000 to a maximum of \$30,000 depending on the degree of defendant's culpability. Again Society prevailed on the immunity issue.

Adams and Mrs. Ball appealed the determination of the lower court and each case is now before you for decision. Decide each case using an interest analysis approach. Discuss all issues thoroughly.

### Question 2 - 15 Points

Plaintiff, Lt. Col. Griffin, and his wife Mary are citizens and domiciliaries of the State of Pennsylvania. During Griffin's service in the Army, Mary went to Massachusetts and met defendant who is a citizen and domiciliary of Massachusetts. Griffin's complaint alleges that defendant, intending to deprive Griffin of the comfort, society, aid, and assistance of Mary, enticed Mary to leave Griffin's home.



The law of Pennsylvania provides as follows:

Section 170 - All civil causes of action for alienation of affections of husbands or wives are hereby abolished.

Section 171 - No act hereafter done within this Commonwealth shall operate to give rise, either within or without this Commonwealth, to any of the causes of action abolished by this act. It is the intention of this section to fix the effect, status, and character of such acts and to render them ineffective to support or give rise to any such causes of action within or without this Commonwealth.

With respect to an action for alienation of affections, Massachusetts has retained in modified form, the husband's common law right to hold liable a defendant who has induced his wife to deprive him of her consortium.

Advise Griffin as to whether the law of Pennsylvania or the law of Massachusetts will be applied.

Question 3 - 20 Points

Charles, a resident and domiciliary of California is a manufacturer of electronic components used in the manufacturing of computers. While on his way to his summer home in Bar Harbor, Maine, Charles stopped for a convention in New York City where he met Newton, the manufacturer of computers. Newton is a resident and domiciliary of Maine. The parties agreed for the purchase by Newton of 100,000 of Charles' components and signed a contract to that effect. The components were to be shipped from Charles' plant in California to Newton's plant in Maine within 3 months.

Charles failed to deliver the components, thereby damaging Newton to the extent of \$500,000. Charles' failure to deliver was due to the destruction of his plant by a fire.

A statute in Maine reads in part:

- (1) Any person, whether or not a citizen or resident of this State, who in person or through an agent does any of the acts hereinafter enumerated, thereby submits said person, and, if an individual, his personal representative, to the jurisdiction of the courts of this State as to any cause of action arising from the doing of any of said acts:

- a) The transaction of business within this State;
- b) The commission of a tortious act within this State;

- c) Contracting to insure any person, property or risk located within this State at the time of contracting.
- (2) Only causes of action arising from acts enumerated herein may be asserted against the defendant in an action in which jurisdiction over him is based upon this section.
- (3) Nothing herein contained limits or effects the right to serve any process in any other manner now or hereafter provided by law.

Can the Maine Courts exercise jurisdiction over Charles and, if so, to what extent? If the Maine Courts can exercise jurisdiction over Charles, what courses of action are open to him and what results flow therefrom? If the Maine Courts cannot exercise jurisdiction over Charles, what courses of action are available to Newton? In any event, which State's law should be applied to determining who should bear the risk of loss?

Question 4 - 20 Points

Louise was killed in an automobile accident in Arizona while enroute from Texas to California. She died intestate leaving personal property in both Texas and California.

She was on her way to California to an apartment she had rented a month before the accident and to where she had sent some of her clothing. The reason for going to California, was that she had an argument with her husband and decided to leave him and move to California to be closer to her married children living in California.

Both California and Texas provide that the personal property of an intestate descends according to the internal law of the domicile of the decedent. Thus under Texas law her husband would receive all of the property, but under California law her husband would receive 1/3 of the property while the children would receive 2/3 of the property.

- (1) Where was Louise domiciled on the date of her death?
- (2) If the accident occurred in California, would your answer in number 1 above change? Why or why not?
- (3) Suppose Louise died after living in California for five years and a statute in California said married women cannot obtain a domicile separate from their husband's domicile, but a statute in Texas said married women can obtain domiciles separate from that of their husband.

You represent the children, what arguments can be made for the descent of the property according to California law?



Question 5 - 15 Points

Pamela and James were married in Mississippi in 1960 and were there separated in 1965. Pamela obtained a support decree entitling her to \$100 per week until events should warrant a change.

James never paid any of the weekly installments, so in 1968, she brought an action for the unpaid installments and received a judgment for \$12,000. James, however, skipped to Alaska after the judgment and never paid the judgment. In 1970, Pamela discovered that James had loaned \$50,000 to one Williamson in North Dakota, so she promptly attached the debt owed to James by Williamson.

She is asking the North Dakota court to enforce her money judgment, give her a judgment for the accrued installments, and to adopt the Mississippi decree as a North Dakota decree and that James be ordered to pay her \$100 per week until further order of the court.

Decide the case.