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THE LAW OF CONFLICT OF LAWS

by ROBERT A. LEFLAR. Indianapolis: Bobbs-Merrill Company, Inc., 1959. pp. 467, \$9.50.

In the preface of this Treatise Professor Leflar suggests that the law of Conflict of Laws has changed more than any other common law subject in the last twenty years. He attributes much of this metamorphosis to the decisive split of opinion among legal scholars in this field.

The text of Professor Leflar's book proceeds to first review the early authors responsible for categorizing the law of conflict of laws into concrete common law form. To Justice Joseph Story is given credit for parenthood of the child called conflict of laws. Leflar considers Story to be the first authoritative writer, whose endeavors appeared in published form in 1834.

The next person to whom great credit is due is Joseph Henry Beale. His three-volume work on this subject was published in 1935. The aforementioned scholars are credited with formulating the common law of conflict of laws. Beale is worthy of further mention because he headed the American Law Institute group which promulgated the Restatement of Conflict of Laws in 1934. This, of course, also accounts for the acceptance of Beale by the legal world as an authority of great aptitude in this field.

Leflar then apprises the reader that an open schism occurred in the 1920's when George W. Stumberg and Walter Wheeler Cook presented anti-Bealian points of view contrary to the law outlined in the Restatement. A new edition of the Restatement attempted to meet many of the objections to the 1934 draft. This 1950 draft, however, has also met with much criticism. The principal reason for this censure seems to be that the 1950 draft has ventured to simplify a field of law which is in fact incapable of simplification.

It is brought to the reader's attention that Beale tended to automatically recognize extra state rights. Federal Constitutional requirements were recognized, but the rightness or

wrongness of conflict of laws decisions were decided independently of them.

Next, Leflar informs us that anti-Bealian factions gained much momentum from the fact that in some conflict areas there were more wrong decisions than right ones. A plethora of decisions was analyzed. The result tended to show that courts treated foreign law not as law but as fact to the extent of merely considering it along with all the other facts in the case and giving it whatever weight the court felt it merited as a fact. This then meant that the local law of the forum almost always controlled the judgment. The final uniting factor of the anti-Bealians was a claim that they analyzed decisions in terms of what courts actually do rather than in terms of concepts.

This reviewer feels the historical approach of the first chapter is most helpful in acquainting the student of the underlying philosophies which are of prime importance in any phase of the law. Leflar uses this chapter as the gateway to the many complicated problems treated in the ensuing twenty four chapters. These subsequent chapters while not excessively long, do adequately cover such problems as domicile, jurisdiction, characterization, procedure, corporations, criminal law, torts, workmen's compensation, land, movables, marital matters, wills and trusts, receivers, and state taxation.

The last chapter which deals with state taxation is a timely subject in light of the ever increasing importance of tax practice today. Professor Leflar's citations here are probably more up to date than any other handbook on this topic presently available.

The format of the book is slightly different than that of most books of this nature. For instance, the table of cases is sixty pages long and arranged in a single column per page.

The annotations, I feel, dwell too much on Arkansas law. This is understandable in that Professor Leflar once prepared Arkansas annotations for the Conflict of Laws Restatement. He states that in his new book all the Arkansas cases prior to January 1, 1959 are dealt with. He then qualifies this by saying that they are treated as part of an American law of conflict of laws. I think his qualification is sound and the book does give

a fair picture of the American law as it operates in any one of the states today.

One feature which I miss in this type of book is heavy black print prefatory to each section within the respective chapters. This is, of course, only a personal vagary and carries little weight as an attack on the book.

In conclusion I unhesitatingly recommend this book as a highly lucid exposition of the law of conflict of laws. This volume should in the near future find a secure position on the shelves of both the student and the general practitioner. A book of this nature while obviously not a legal classic, will, I am sure, prove to be of invaluable assistance to all users.

F. B. D.