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Some years ago Professor Leflar set out to collect Arkansas annotations to the first Restatement of Conflict of Laws. Not satisfied with that project, he produced, in 1938, Arkansas Law of Conflict of Laws, a treatise based on the law of a single state. Since no one state can provide enough law on the subject, Professor Leflar offered in 1959 a revision of the earlier work, The Law of Conflict of Laws. Although the new book provided all the Arkansas cases up to January 1, 1969, they were treated as illustrations of the subject as found in the law of one jurisdiction. The larger purpose of that rewriting as announced in the preface was “to give a fair picture of the American law as it typically operates in any one of the states today.” Although some reviewers found too much Arkansas law in the book, the most widely expressed criticism was that the author was too content to present the doctrines of case law with not enough criticism of the philosophical bases purportedly supporting the doctrines or reflection upon the way in which decisions functioned as opposed to the way in which they were thought to function. In short, it was a very good job of telling it the way most people thought it was, but not enough was conveyed of how it ought to be. But that had to be conceded to be more a fault of the subject than of the reporting.

This new edition, American Conflicts Law, in an attractive volume with an improved format, goes some way to meet the earlier reviewers. Arkansas cases have been retained in some measure but more to illustrate matters not found so easily in the law of other states than to give a continuing point of reference. The diversity in choice of law in Arkansas contracts cases, for example, is still instructive.

There is more in the way of criticism and suggestion of trends than before, but the approach, on the surface at least, is one of cautious transition. Professor Leflar keeps admirable pace with his subject, careful to explain it and to point up its obvious faults, careful also not to outrun it. He states his aims in the preface.

The title of this book abandons the traditional term Conflict of Laws, and uses the vernacular “Conflicts.” The new title is intended to be characteristic of the book, representing a mild break with the past, a recognition that the law requires both new language and new analysis if it is to be described, or explained in realistic fashion.

As such the book will be especially welcomed by students and practitioners as a timely and reliable account of the way in which “Conflicts” has changed and is changing. No doubt some conflicts scholars will continue to miss the imposition of an analytical system upon the subject. Readers may occasionally be frustrated—tantalized is perhaps a better word—by understated but perceptive observations which only hint at more provocative analyses.

For example, jurisdiction and choice of law traditionally have represented separate, generally unrelated issues. Professor Leflar observes appropriately that the assumption of jurisdiction, based as it is more and more on the full exercise
of authority to adjudicate as permitted by the outer limits of the Due Process Clause, may be influenced by choice of law. Thus the law to be applied may be a function of "fairness and substantial justice." This sets one to thinking, and the author leaves the reader to do most of his own thinking.

The organization of the book is traditional enough. There are preliminary chapters on theory and domicile and then the usual sequence of judicial jurisdiction, recognition of judgments, and choice of law as developed in the several subject matter categories. Between judicial jurisdiction and judgments there are two chapters dealing with conflicts in the federal system, particularly choice of law. One wishes there were more on federal-state relationships.

If criticism is to be made of the organization it is that the traditional sequence puts judgments, where change has been slow, between jurisdiction and choice of law, where change has been rapid. This encumbers analysis of the functional interplay between the dynamic aspects of the subject. The traditional breakdown of choice of law into domestic subject matter categories, which occupies more than half of the book, probably prevents a fully functional analysis. After taking the reader through the choice of law theories and his preferred method of dealing with choice-influencing considerations—these discussions and the analysis of long arm jurisdiction by themselves make the book a wise purchase—the author gives a handbook treatment of choice of law in the several subjects. The term handbook is perhaps harsh, for the account of existing solutions is accurate and thorough. There are also constant reminders that the matter might better be handled by resort to analysis of the choice-influencing considerations: (1) predictability of results; (2) maintenance of interstate and international order; (3) simplification of the judicial task; (4) advancement of the forum's governmental interests; (5) application of the better rule of law. These considerations may be of varying influence in torts, contracts and other areas, but their meaning and function are derived from the common law practice of rational adjudication which transcends the subject matter.

It is one of the larger ideas of the treatise that we are indeed engaged in common law decision-making. This obvious truth has too long been obscured. Now if choice-influencing considerations are to generate rational solutions to choice of law problems, courts may someday subsume issues within the subject matter categories under appropriate correlations of the choice-influencing considerations rather than the other way around. Presently there is a troublesome division between a doctrinal sorting out of choice of law rules and the considerations revealed by functional analysis which in part at least call for organization unfettered by subject matter boundaries. But the presentation of multi-dimensional problems in a necessary sequence of page and print requires some organization and Professor Leflar has chosen the one which conforms to current practice. In this regard it is difficult to question his decision. Professor Leflar's hope that American Conflicts Law "reasonably reflects . . . new developments" is well realized.

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