

# Issues and Perspectives in Conflict of Laws



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# Issues and Perspectives in Conflict of Laws

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Cases and Materials  
Fourth Edition

Gary J. Simson  
PROFESSOR OF LAW  
CORNELL LAW SCHOOL

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# Preface to the Fourth Edition

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This new edition updates the book to 2004 with significant developments in U.S. conflicts law and scholarship. It includes more than a dozen new principal cases that not only enhance the breadth and depth of coverage but also should prove lively and interesting to teach. Many other new cases receive extended treatment as note cases.

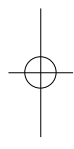
Much of the new material reflects the increasing importance in this country's courts of international conflicts, and this edition, like the third, includes a supplemental table of contents highlighting international conflicts cases. The book continues to be organized on the principle that international and intranational conflicts cases are best studied together. Teachers who wish to give special emphasis to international conflicts, however, should have no difficulty doing so with this book, and the supplemental table of contents should facilitate their efforts in this regard.

Like the earlier editions, the fourth features an innovative organization of the choice-of-law materials. This and other distinctive features of the book are discussed in the preface to the first edition, which is reproduced below.

In editing I have followed the conventions used in the earlier editions for when and how to indicate deletions. They are described in the preface to the first edition.

I am grateful to Nicole Alford, Jack Chiueh, Daryl Mutton, and SeoJung Park for substantial research assistance at various points of the project. I especially thank SeoJung Park for her exceptional diligence and dedication in the project's final stages. Finally, with great pleasure, I dedicate this edition to my parents, Marvin and Mildred Simson, who have been a constant source of encouragement and inspiration to me in all my work.

Gary Simson  
Ithaca, New York  
Fall 2004



# Preface to the First Edition

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Broadly speaking, conflict of laws deals with the effect to be given in deciding a case to the fact that the case is significantly related to more than one jurisdiction. American conflicts law encompasses four principal subjects: the law to be applied to determine parties' rights and liabilities in a case not confined in its elements to the forum state (choice of law); constraints on a state court's jurisdiction to adjudicate disputes with some nonlocal elements; the effect to be given out-of-state judgments; and conflicts between state and federal law. Chapters 1–8 of this book address a wide variety of issues in choice of law. Chapters 9 and 10 deal with problems of jurisdiction and judgments respectively, and federal-state conflicts are the focus of Chapter 11. The table of contents indicates the coverage of each chapter in considerable detail. In this preface I would like to call attention briefly to several of the book's distinctive features and then explain a few technical matters about the book.

First, as far as distinctive features, the organization of the choice-of-law part of the book differs substantially from the organization traditionally in vogue in terms of subject-matter headings (torts, contracts, etc.) and from the organization recently favored in terms of approaches to choice of law (the traditional approach and various modern alternatives). The book begins in Chapter 1 by highlighting the natural advantages of applying forum law and then turns in subsequent chapters to choice-of-law policies that at times have led courts to reject these natural advantages. I believe that this organization offers a particularly useful perspective for understanding choice of law and that it encourages students to question the old and new learning in choice of law in ways that the other organizations do not.

Second, the book invites consideration of the potential significance to certain conflicts issues of a number of constitutional law doctrines not ordinarily recognized as relevant to those issues. This is probably most apparent in Chapter 8, "Constitutional Limitations on Choice of Law."

Third, the book does not include the usual separate chapter on family law but instead integrates the family law materials into the jurisdiction and judgments chapters. In my view, this integration of materials provides greater insight into both jurisdiction and judgments problems in the family law area and jurisdiction and judgments problems in general.

Finally, the book departs from the standard practice of posing in the notes following a principal case various questions tailored to the case. Instead, it contains questions of some generality and scope in introductions and essentially reserves the notes for summaries of relevant precedent, excerpts from the literature, and other materials helpful for analyzing the issues raised by the principal case or cases that come before. (In some chapters, the introductory writing appears only at the very beginning of the chapter. In others, for purposes of readability, it is broken up and appears at the beginning of each section.) I believe that this for-

mat has the advantage for teachers of allowing them greater freedom in the way in which they teach a particular case. In addition, I believe that it provides students with more of the type of guidance that they are most likely to need. In this regard, the questions in the introductions should prove valuable for students in several respects: in alerting them as they begin a chapter (or section) to the larger issues raised in the materials to follow; in helping them as they proceed through a chapter to see relationships among the cases in the chapter; and in helping them to refine their understanding of a chapter when they review it after the class has finished discussing it.

The book is written with the expectation that it will be used in a conflicts course of three semester hours, but it could easily be adapted for use in a two-hour or four-hour course. In selecting principal cases, I have proceeded on the view that instructors should not be forced to pick and choose among the cases in a section or chapter in order to avoid undue repetition. They should feel free to assign a section or chapter in its entirety. I have not attempted in the notes to be comprehensive in citing all the scholarship that someone researching a particular problem would want to consider. For the benefit of instructors and students, however, I have cited and often quoted from commentary that I have found especially useful in teaching the course. In editing principal cases and quoted material, I have deleted footnotes without indication and have not renumbered the footnotes retained. Citations of cases, statutes, and articles, internal cross-references, and the like have been eliminated without indication. Other omissions are indicated by ... (unless they occur within a quotation, where they are indicated by \* \* \*).

I am grateful to Kevin Clermont, Bob Kent, and various other colleagues at Cornell and elsewhere for helpful comments on the book. Dean Peter Martin has been more than generous in facilitating the completion of this project. I thank Pamela Fasick, Denise Hauselt, and Marshall Tinkle for very fine research assistance, Susan Green for exceptional patience and skill in typing (and retyping) the great bulk of the manuscript, and Chris O'Hara for ably completing the typing. Finally, I dedicate this book with great pleasure to Rosalind Simson for invaluable contributions of many kinds.

Gary Simson  
Ithaca, New York  
January, 1985



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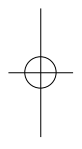
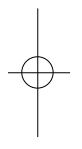
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