FULL application of comparative methods to the law of conflicts requires a working plan of some magnitude. We ought to take stock of the conflicts rules existing in the different countries of the world, state their similarities or dissimilarities, and investigate their purposes and effects. The solutions thus ascertained should moreover be subjected to an estimation of their usefulness, by the standards appropriate to their natural objective. Conflicts rules have to place private life and business relations upon the legal background suitable to satisfactory intercourse among states and nations. They are valuable to the extent that their practical functioning, rather than their legal appearance, serves this purpose.

To meet the challenge of this program with limited forces is a risky undertaking. Nevertheless it has to be attempted. The conditions of the law of conflicts are deplorable. It may be said, to the reader's and my own consolation, that the staggering provincialism apparent in the international family law presented in this volume is not equaled in other parts. But if conflicts problems have been cultivated by men of the highest erudition, idealism, and endeavor, they have also been the object of prejudice and dogmatism. Suggestions of almost all needed ideas may be found, but little agreement on a sound choice. The courts of this country dealing with a wealth of interstate cases have prevailingly shown sincere respect for foreign legislation and applied an accomplished method of comparative research. But this admirable attitude, which is the most outstanding model for the practice of private international law, suffers exceptions, and in the field of international relations throughout the world, despite enormous ef-
forts, the simple truth that harmony presupposes mutual understanding and tolerance, has not prevailed in conflicts law more than in foreign affairs.

All considered, the further we extend our comparative survey, the less doubt can subsist about the need for a total reconsideration of the international purpose and the undeveloped resources of this branch of law. The time has passed when we may rest satisfied to state a rule and to regret it. Not that the premature legislation or halfhearted treaty making, familiar to the last decades, should be advocated. What this book is intended to suggest is a patient and concerted world-wide discussion determined to relieve the present chaos. I am convinced that large results must not be deferred to a remote future. The legal profession has great power and deserves great confidence. If it decided to consider conflicts law as a matter of general interest and gave it its unbiased attention, much might be obtained that now seems Utopian. I am particularly hopeful of the lawyers in the United States.

According to the program, I have regarded my foremost task to be the collection and grouping of the significant rules, theories, critical views, and proposals, and the cases animated by them. This task is comprehensive and worth-while enough to dictate sacrifices. It has not been possible to spare the reader and myself tedious enumerations and many a mosaic of incoherent pieces, and I have had to renounce historical and theoretical developments. Neither is there space to describe at length the institutions of private law that are the subject matter of the conflicts rules. This compulsory limitation is the more regrettable, as common law lawyers have not been introduced to the concepts of civil law as European lawyers were informed of Anglo-American institutions during the period between the two wars.

I have also restricted my own critical appraisals, and I
have doubted whether any recommendations for the future should be added. Yet, in view of the personal encouragement that I have received from such scholars as Elliott E. Cheatham, Max Rheinstein, and Hessel E. Yntema, and recently in Ernest Lorenzen’s great review of the last period of American conflicts law, it seems to be the writer’s duty not entirely to conceal his impressions regarding the desirable path that the evolution may take. Theoretical conclusions of more general scope as well as specified proposals for elaborating the rules may be expected, when comparative research in this singular and disturbed field has become broader and bolder. I hope the survey itself will almost automatically arouse the wish for certain reforms.

Because of the war time, European rules and cases are stated, in principle, as they were in 1939 at the beginning of the war. This is a rather convenient date for a view back, while a new epoch is starting. More recent materials coming through have, of course, been registered.

The Legal Research Library of the University of Michigan in Ann Arbor has afforded me a hospitable haven and ample facilities for work. Its farsighted policy has enabled me, for the first time in a work of this kind, to include a substantial amount of Latin-American doctrine. My satisfaction in this regard is somewhat impaired by the fear that my efforts of analysis have not been entirely successful in regard to certain Latin-American formulations. As these countries possess outstanding scholars in this field who are the natural intermediaries between common law and civil law, it is to be hoped that they will participate in carrying on the work here begun and supply the details not yet mentioned in the literature but with which the courts must deal.

To the American Law Institute, the Dean and Faculty of the Law School, University of Michigan, and the Research Department of the W. W. Cook Foundation directed by
Professor Lewis M. Simes, I owe deepest gratitude. Dean Emeritus William Draper Lewis, the eminent and beloved director of the American Law Institute, has rescued me from the cataclysm of Europe; he has been the original sponsor of this enterprise and has not ceased to manifest his friendly interest in it. Professor Hessel E. Yntema, since 1940, has fulfilled his task as editor with an unprecedented sacrifice of time and labor. He has generously provided me with information and suggestions, constantly supervised during all these years the comprehensive ministerial aid furnished by the research staff of the Faculty, and devoted his command of English style to an extremely delicate and exacting revision of the language of my manuscript. Professor Hobart R. Coffey has liberally shared in this burden, and to him, as Law Librarian, as well as to his entire staff, who have been most kind, I am grateful. I feel cordially obligated also for the devoted services of Mrs. Lilly Melchior Roberts, who, with the assistance of Miss Dorothy Karl, has been especially helpful in checking the documentation, to Dr. Vladimir Gsovski, Chief of the Foreign Laws Section, Law Library of the Library of Congress, and to those whose contributions Mr. Yntema has deservedly acknowledged.

Finally, it is my privilege to thank publicly Professor Max Rheinstein of the University of Chicago, the most faithful of friends, for the help he has freely given to this book as well as to me and my family. I am happy to see him represent in this country our common scientific ideals.

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