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# TEACHING CONFLICTS, IMPROVING THE ODDS

*Gene R. Shreve\**

CONFLICT OF LAWS: CASES, MATERIALS AND PROBLEMS. By *David H. Vernon, Louise Weinberg, William L. Reynolds, and William M. Richman*. New York: Matthew Bender & Co. 1990. Pp. xxiii, 753, and problem appendix. \$39.95.

Before I first taught federal courts, I wrote to the late Professor Paul Bator. I posed different possibilities for arranging assignments from his casebook and asked for his advice concerning which he thought would work best. His reply was gracious if brief. "Don't worry about your particular approach." Professor Bator said. "Whatever you do, the material is too rich to spoil."

The same can be said for conflicts. One of the few common law courses in the upper curriculum, it invites more attention to themes of judicial lawmaking and process than courses after the first year usually do. Moreover, the topics addressed in conflicts are as challenging intellectually as a law teacher could want. They continually provide opportunities to question the "what" and "why" of law. Finally, professors have a hook to use in teaching conflicts that is not always available in highly conceptual courses. Conflicts problems inescapable in practice are really no different from those in the classroom. In perhaps no other law school course do spheres of intellectualism (dear to the legal academy) and practical understanding (dear to lawyers and judges) so overlap.

Since this makes conflicts too rich to spoil, any good casebook should do, and there have long been many good ones on the market. It is fair to ask whether we need another. Professors David Vernon,<sup>1</sup> Louise Weinberg,<sup>2</sup> William Reynolds,<sup>3</sup> and William Richman<sup>4</sup> thought so. This essay examines their book and agrees.

Part I discusses why conflicts, despite its allure, can be so frustrating to teach. Part II discusses features of the new casebook. It concludes that, while the new book does not represent a dramatic

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departure from its competitors, its assorted qualities add up to an attractive package: materials that may help conflicts professors involve and truly teach a higher proportion of their students.

### I. SOME REASONS CONFLICTS IS A DIFFICULT COURSE TO TEACH

To understand why conflicts is hard to teach successfully, it may be best to begin with a closer look at the core of the course: the choice-of-law process. That process exists for cases in which the facts suggest two or more different sources for governing law, and laws from those sources seem to produce conflicting results.<sup>5</sup> A full-bodied approach to resolving conflicts emerged from American judicial decisions of the nineteenth and early twentieth centuries. This traditional approach entered a period of stagnation, followed by what has often been called a revolution in conflicts doctrine.<sup>6</sup>

Torts and contracts cases provided the stage for most of the struggle. The shape of dramatic change in American conflicts law was clear in the early 1970s. Local litigants began to win application of forum law by arguing that they were among those whom such law was designed to protect. In other words, they demonstrated that the forum had a legitimate interest in having its own law applied to the controversy.<sup>7</sup> These decisions were sensible. However, because they rejected a good deal of traditional conflicts doctrine, the decisions were revolutionary as well.

Traditional doctrine had usually been indifferent to the purposes of laws or to particular needs of litigants. It rested instead upon an increasingly unconvincing jurisprudence, a vested-rights formalism similar in its way to jurisdictional doctrine most often associated with *Pennoyer v. Neff*.<sup>8</sup> Geographical inquiries dominated both fields. For *Pennoyer* the question was whether service of process was completed (as it had to be) in the forum state. Under traditional conflicts doc-

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5. This essay uses the phrases *conflict of laws* and *choice of laws* interchangeably to describe such issues. On the roots of the first term, see Donald T. Trautman, *The Relation Between American Choice of Law and Federal Common Law*, LAW & CONTEMP. PROBS. Spring 1977, at 105, 105 n.2, and of the second, see David F. Cavers, *A Critique of the Choice-of-Law Problem*, 47 HARV. L. REV. 173, 179 (1933).

6. Examples of the many descriptions of the modern movement and its effect on traditional doctrine include David F. Cavers, *Contemporary Conflicts Law in American Perspective*, 131 R.C.A.D.I. 75 (1970), and Harold L. Korn, *The Choice-of-Law Revolution: A Critique*, 83 COLUM. L. REV. 772 (1983).

7. While sharp local interests precipitated the revolution, the idea of inquiring into the policies accounting for a rule of decision was not parochial in itself. It is not surprising, therefore, that courts soon began to use interest (policy) analysis to choose foreign over local law. For discussion of several of these cases, see Russell J. Weintraub, *A Defense of Interest Analysis in the Conflict of Laws and the Use of that Analysis in Products Liability Cases*, 46 OHIO ST. L.J. 493, 499-501 (1985).

8. 95 U.S. 714 (1877).

trine, the choice of law was governed by such facts as the location of physical injury or the place of contracting. For some time, courts had mitigated the harshness of traditional conflicts doctrine through different fictions. Yet these fictions — distasteful in themselves — offered unreliable protection.<sup>9</sup>

*Pennoyer's* dominance ended when the Supreme Court began permitting personal jurisdiction in forums where service of process could not be completed.<sup>10</sup> The conflicts revolution came only a short time later, when a significant number of courts decided that geographical indicators such as place of physical injury or place of contracting would not necessarily dictate the source of governing law.<sup>11</sup> As with the modification of personal jurisdiction rules, changes in choice of law doctrine reflected a shift from hard-and-fast rules to approaches that were far-ranging, supple, and policy-based.

Old geographical indicators lost their preeminence, but they did not disappear under modern theory. Courts retained them while adding others. New indicators in torts and contracts cases included places where the parties were citizens, and where relationships material to the controversy were centered.<sup>12</sup> Working with more indicators, courts began using a mode of analysis unthinkable under traditional doctrine. They applied in the same case geographical indicators pointing both toward and away from a source of governing law.

For traditionalist courts, a single geographical indicator decided the case. Under modern theory, however, a single indicator is but part of a larger net of geographical indicators used to gather data — raw facts from each case. No indicator is invariably significant. The same one (for example, plaintiff's place of citizenship) might illuminate data instrumental to decision in one case but not in the text.

The different role modern theory assigns to geographical indicators reflects a more profound division between the two approaches. Little of what we now think of as conflicts policy accompanied the traditional approach. Geographical indicators instead operated in a closed, mechanical system characteristic of *deus ex machina* formalism. In

9. See Joseph Morse, *Characterization: Shadow or Substance*, 49 COLUM. L. REV. 1027, 1056-62 (1949); Monrad G. Paulson & Michael Sovern, "Public Policy" in the Conflict of Laws, 56 COLUM. L. REV. 969, 970-71 (1956).

10. The pivotal case was *International Shoe Co. v. Washington*, 326 U.S. 310 (1945). For a description of this period in the history of personal jurisdiction, see GENE R. SHREVE & PETER RAVEN-HANSEN, *UNDERSTANDING CIVIL PROCEDURE* 38-50 (1989).

11. Two watershed decisions were *Auten v. Auten*, 124 N.E.2d 99 (N.Y. 1954) (contracts), and *Babcock v. Jackson*, 191 N.E.2d 279 (N.Y. 1963) (torts).

12. For example, § 145(2) the American Law Institute's *RESTATEMENT (SECOND) OF CONFLICT OF LAWS* (1971) offers these indicators for torts cases in general: "(a) the place where the injury occurred, (b) the place where the conduct causing the injury occurred, (c) the domicile, residence, nationality, place of incorporation and place of business of the parties, and (d) the place where the relationship, if any, between the parties is centered."

contrast, modern theory exhibits a preference for policy-driven rather than fact-driven results. The essence of the modern approach is that a raw geographical fact weighs in the balance of a conflicts decision only when it implicates an important choice-of-law policy.

Modernists take their policies from shared goals of the choice-of-law process. Chief among these are the goals of giving rules of decision the effects intended by the sovereigns that created them and respecting the reasonable expectations of the parties. If one engages in this process of data collection and evaluation carefully, it becomes clear in many cases that only one choice promotes goals of choice of law, and the modern approach is relatively easy to justify. The approach is also useful for difficult cases, because it reveals the clash of choice-of-law goals that produces difficulties, and it gives courts as much to work with as possible in reaching a decision.

Some commentators have been more enthusiastic than others about these developments.<sup>13</sup> Yet two points seem clear. First, few would turn back the clock. Second, the revolution has made conflicts — never an easy subject<sup>14</sup> — more complex, elusive, and downright difficult.<sup>15</sup> Except in a handful of jurisdictions still using the old approach,<sup>16</sup> results now turn on particular and highly variable features of each case.

Appropriately, then, students in law school conflicts classes are likely to spend much time carefully unraveling decisions and hypotheticals. This is case method teaching of a demanding sort. For

13. Compare Gregory S. Alexander, *The Concept of Function and the Basis of Regulatory Interests Under Functional Choice-of-Law Theory: The Significance of Benefit and the Insignificance of Intention*, 65 VA. L. REV. 1063 (1979); John Bernard Corr, *Interest Analysis and Choice of Law: The Dubious Dominance of Domicil*, 1983 UTAH L. REV. 651; John Hart Ely, *Choice of Law and the State's Interest in Protecting Its Own*, 23 WM. & MARY L. REV. 173 (1981); William C. Powers, Jr., *Formalism and Nonformalism in Choice of Law Methodology*, 52 WASH. L. REV. 27 (1976) (each expressing apprehension) with Bruce Posnak, *Choice of Law: Interest Analysis and Its "New Critics,"* 36 AM. J. COMP. L. 681 (1988); Robert A. Sedler, *Interest Analysis as the Preferred Approach to Choice of Law: A Response to Professor Brilmayer's "Foundational Attack,"* 46 OHIO ST. L.J. 483 (1985); David E. Seidelson, *Interest Analysis: The Quest for Perfection and the Frailties of Man*, 19 DUQ. L. REV. 207 (1981) (each viewing modern developments more favorably).

14. It was to Cardozo "one of the most baffling subjects of legal science." BENJAMIN N. CARDOZO, *THE PARADOXES OF LEGAL SCIENCE* 67 (1928). Professor Max Rheinstein later described the traditional approach as the "most difficult and most confused of all branches of the law." Max Rheinstein, *How to Review a Festschrift*, 11 AM. J. COMP. L. 632, 655 (1962) (book review).

15. By one stern assessment, "the antics of joyriding conflicts revolutionaries have done little to improve the image of our discipline." Friedrich K. Juenger, *What Now?*, 46 OHIO ST. L.J. 509, 515 (1985).

16. At one time, it seemed that all remaining jurisdictions would fall into line. In two jurisdictions, however, traditional conflicts doctrine recently exhibited surprising life. *Owen v. Owen*, 444 N.W.2d 710 (S.D. 1989); *Paul v. National Life*, 352 S.E.2d 550 (W. Va. 1986). For critiques of *Owen* and *Paul*, respectively, see Charles M. Thatcher, *Choice of Law in Multi-State Tort Actions After Owen v. Owen: The Less Things Change . . .*, 35 S.D. L. REV. 372 (1990); and Jeffrey Jackson, *No Place Like Home: Public Policy and Prudent Practice in the Conflict of Laws*, 90 W. VA. L. REV. 1195 (1988).

the approach to be successful, students must prepare, attend class, and actively (or vicariously) participate.<sup>17</sup> This is also where difficulties in conflicts teaching begin.

Up to a point, the difficulties encountered are typical of those professors face in most second- and third-year courses. Law professors usually find it much harder to sustain the interest of students who are beyond their first year of law school.<sup>18</sup> For several reasons, however, the picture is more discouraging for conflicts.

While evidence of merely mediocre work in law school is never heartening, it is little short of horrifying in a conflicts course. Modern conflicts analysis is so demanding that a superficial "C" level understanding of conflicts is probably close to useless. Those in practice must have a mastery of the conceptual techniques to avoid fouling up even simple conflicts problems. The prospect of unleashing more "C" conflicts students on society takes a lot of the pleasure out of teaching the course.

Mastery of the subject is possible for most students only through careful reading, hard thought, and repetition of difficult mental exercises — effort disaffected second- and third-year students may be unwilling to make. Conflicts students often display cynicism about the class material and about the manner in which it is taught. That is, they dismiss conflicts decisions as unprincipled instead of attempting to understand subtle forces of conflicts policy and the common law process, and they mistake as redundant the variations posed in method-based conflicts teaching.<sup>19</sup>

Thus, conflicts students often slip through the course without really understanding the subject. Much of this would probably occur even if conflicts received a pro rata share of the dwindling commitment of upper-year students. Unfortunately, it may receive less. Because conflicts course work often involves the repetition of outwardly similar mental exercises instead of the information crunching charac-

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17. On the strategies and difficulties of case method teaching, see Lon L. Fuller, *On Teaching Law*, 3 STAN. L. REV. 35 (1950); Edwin W. Patterson, *The Case Method in American Legal Education: Its Origins and Objectives*, 4 J. LEGAL EDUC. 1 (1951).

18. Upperclass students are prone to "[c]ycles of extended periods of lethargy followed by bouts of cramming. During the second and third years of law study, student effort declines and disbelief in [the] value of the standard techniques and expectations of legal education increases." TASK FORCE OF THE ABA SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR, *LAWYER COMPETENCY: THE ROLE OF THE LAW SCHOOLS* 17 (1979).

19. Some readers might wonder whether there is not a rather obvious solution to the problem: make the final examination for conflicts so difficult that only students who truly grasp the subject will pass. The proposal has a certain appeal, but is unrealistic for most law schools today. Many use guidelines for grade distribution. These discourage or eliminate discretion to enlarge grade categories, particularly extreme categories like "F" or "D." As a more basic matter, such low marks are in these times of grade inflation rarely given at all. A professor who gave a conspicuously large number of low grades could expect enrollment for the course to plummet thereafter. Good students would be among those frightened away.

teristic of many other upper-curriculum courses,<sup>20</sup> students may be correct when they perceive that less work is required to achieve academic mediocrity in the former.

This unsentimental picture of conflicts teaching accepts as cold truth that many students may start the course comfortable with the prospect of doing the bare minimum, and that such meager effort is likely to produce little conflicts learning. However, while some view problems of this sort as nearly unsolvable,<sup>21</sup> matters are not that bleak. I have explained elsewhere why few law students are genuinely beyond hope.<sup>22</sup> Those arguments bear on concerns raised in this essay and can be summarized as follows.

For most upper-year students, the fear and mystery of law school are gone. They know they will graduate whether or not they push themselves in their courses. But this does not mean that they clearly will not work, only that they realize they have a choice. If they feel poorly treated, or simply taken for granted, they may exercise their independence in ways disagreeable to their professors and destructive to their own learning opportunities.

The idea then — particularly for a course as difficult to teach as conflicts — is to draw a greater proportion of students into the richness of the material. Conflicts may be too rich to spoil, but it does not teach itself. To improve the odds in the sense of reaching more students requires of conflicts professors an especially large amount of hard work and dogged enthusiasm. We need every edge we can get. The Vernon, Weinberg, Reynolds, and Richman casebook seems to offer one.

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20. There is no need to suggest that other courses are less challenging intellectually than conflicts. The point is that many are much more likely than conflicts to require students constantly to absorb new, relatively technical categories of material. The difference is evident, for example, from a comparison of conflicts with a course on the Uniform Commercial Code. On the latter, see Edward A. Laing, Book Review, 30 J. LEGAL EDUC. 249 (1979) (reviewing DAVID G. EPSTEIN & JAMES A. MARTIN, BASIC UNIFORM COMMERCIAL CODE — TEACHING MATERIALS (1977)); DOUGLAS G. BAIRD, Book Review, 36 J. LEGAL EDUC. 433 (1986) (reviewing JONATHAN A. EDDY & PETER WINSHIP, COMMERCIAL TRANSACTIONS: TEXT, CASES, AND PROBLEMS (1985)).

21. Resentment toward students who feel no obligation to work hard is widespread among law professors and has led to a number of hostile portraits. See, e.g., FRANCIS A. ALLEN, LAW, INTELLECT, AND EDUCATION 73 (1979); ROBERT STEVENS, LAW SCHOOL: LEGAL EDUCATION IN AMERICA FROM THE 1850S TO THE 1980S, at 278 (1983); Anthony D'Amato, *The Decline and Fall of Law Teaching in the Age of Student Consumerism*, 37 J. LEGAL EDUC. 461, 475 (1987).

22. Gene R. Shreve, *History of Legal Education*, 97 HARV. L. REV. 597, 604-05 (1983) (reviewing STEVENS, *supra* note 21); Gene R. Shreve, Book Review, 33 VAND. L. REV. 822, 825-33 (1980) (reviewing ALLEN, *supra* note 21); Gene R. Shreve, Book Review, 52 S. CAL. L. REV. 259, 265-68 (1978) (reviewing THOMAS L. SHAFFER & ROBERT S. REDMOUNT, LAWYERS, LAW STUDENTS AND PEOPLE (1977)).

## II. FEATURES OF THE NEW CASEBOOK

The authors have previously done fine individual work.<sup>23</sup> Two combined on an important conflicts treatise.<sup>24</sup> Now they demonstrate their ability to assemble course materials in a way that both recognizes the sophistication and vitality of their subject and supports conflicts teachers in meeting the challenge we have been considering.

As one would expect from such a seasoned group of collaborators, there is nothing indecisive in the design or content of their book. Topics the authors choose to address,<sup>25</sup> they address thoroughly and quite well, effectively combining cases, text, and problems. The fairly bold tradeoffs found in this casebook may be most appealing to professors who come to conflicts from federal courts and civil procedure backgrounds. For example, the treatments of personal jurisdiction (also in civil procedure) and federal/state conflict of laws (also in federal courts) appear in all conflicts casebooks currently in use, but are among the best here. On the other hand, professors coming to conflicts from an international law background may prefer a book giving greater emphasis to that side of the subject.<sup>26</sup> Or professors with an interest in corporations, estate planning, or some other area may prefer a book giving greater attention to these and other substantive fields.<sup>27</sup>

For teachers such as myself who do not stray far beyond the core of the subject, the book should be a delight. Undoubtedly all the authors contributed to the portions of the book treating the choice-of-law process; yet Louise Weinberg's influence seems particularly evident here.<sup>28</sup> Professor Weinberg recently chaired the conflict of laws section of the Association of American Law Schools. With many others, I have long admired her scholarship on choice of law itself, on choice of law and the Constitution, and on related matters concerning the intersection of state and federal law. Of those who have edited

23. See, e.g., Louise Weinberg, *Choice of Law and Minimal Scrutiny*, 49 U. CHI. L. REV. 440 (1982).

24. WILLIAM M. RICHMAN & WILLIAM L. REYNOLDS, *UNDERSTANDING CONFLICT OF LAWS* (1984). Another edited an earlier casebook. DAVID H. VERNON, *CONFLICT OF LAWS: THEORY AND PRACTICE* (2d ed. 1982).

25. The book covers all of the basic topics of a conflicts course: domicile (ch. 2); jurisdiction (ch. 3); choice of law (ch. 4); The Constitution and the choice of law (ch. 5); federal/state conflict of laws (ch. 6); and judgments (ch. 7). These topics are presented in a manner that makes them more or less interchangeable. This is important, for every conflicts professor has his or her own idea concerning the order in which the topics should be taught.

26. E.g., WILLIS L.M. REESE, ET AL., *CASES AND MATERIALS ON CONFLICT OF LAWS* (9th ed. 1990); ANDREAS F. LOWENFELD, *CONFLICT OF LAWS: FEDERAL, STATE, AND INTERNATIONAL PERSPECTIVES* (1986).

27. See, e.g., ROBERT A. LEFLAR ET AL., *AMERICAN CONFLICTS LAW: CASES AND MATERIALS* (2d ed. 1989); GARY J. SIMSON, *ISSUES AND PERSPECTIVES IN CONFLICT OF LAWS: CASES AND MATERIALS* (2d ed. 1991). True to form, the one substantive area the new casebook does treat ("Domestic Relations," ch. 8) it addresses in commendable detail.

28. Professor Weinberg confirmed this in a letter to the author, dated November 25, 1991.

casebooks, she ranks with Lea Brilmayer,<sup>29</sup> Russell Weintraub,<sup>30</sup> David Currie,<sup>31</sup> Arthur von Mehren, and Donald Trautman<sup>32</sup> in exploring the choice-of-law process from so many angles.

A source of student resistance to conflicts has been that many of the cases most important in the evolution of modern doctrine dealt with substantive issues now archaic (such as guest statutes, wrongful death liability, and married women's contracts). The new casebook confronts this problem by balancing formative with contemporary cases. Thus, although it contains many hardy perennials from the classical and revolutionary periods,<sup>33</sup> it also pursues conflicts issues in more contemporary settings.<sup>34</sup>

I am also very impressed with the commentary following the cases. It is engaging, nicely written material that pushes students to think about what they have read and supplies numerous ideas and sources for further reading. All of this should be of real help in overcoming the difficulties in drawing students into the course. So too will diagrams<sup>35</sup> and abundant problems<sup>36</sup> found in the casebook. Students are

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29. LEA BRILMAYER & JAMES A. MARTIN, *CONFLICT OF LAWS CASES AND MATERIALS* (3d ed. 1990).

30. EUGENE F. SCOLES & RUSSELL J. WEINTRAUB, *CASES AND MATERIALS ON CONFLICT OF LAWS* (2d ed. 1972).

31. ROGER C. CRAMTON ET AL., *CONFLICT OF LAWS: CASES — COMMENTS — QUESTIONS* (4th ed. 1987).

32. ARTHUR T. VON MEHREN & DONALD T. TRAUTMAN, *THE LAW OF MULTISTATE PROBLEMS: CASES AND MATERIALS ON CONFLICT OF LAWS* (1965).

33. Among the former are *Alabama Great Southern Railroad Co. v. Carroll*, 11 So. 803 (Ala. 1892), reprinted at pp. 219-21, and *Milliken v. Pratt*, 125 Mass. 374 (1878), reprinted at pp. 225-27. The latter include *Auten v. Auten*, 124 N.E.2d 99 (N.Y. 1954), reprinted at p. 293; *Babcock v. Jackson*, 191 N.E.2d 279 (N.Y. 1963), reprinted at pp. 309-12; *Lilienthal v. Kaufman*, 395 P.2d 543 (Or. 1964), reprinted at pp. 321-26; and *Bernhard v. Harrah's Club*, 546 P.2d 719 (Cal. 1976), reprinted at pp. 343-47.

34. For example, product liability and mass tort cases are quite important now. See, e.g., Symposium, *Conflict of Laws and Complex Litigation Issues in Mass Tort Litigation*, 1989 U. ILL. L. REV. 35; Mary Kay Kane, *Drafting Choice of Law Rules for Complex Litigation: Some Preliminary Thoughts*, 10 REV. LITIG. 309 (1991). Among the cases from this area appearing in the casebook are *Edwardsville National Bank & Trust Co. v. Marion Laboratories, Inc.*, 808 F.2d 648 (7th Cir. 1987), reprinted at pp. 381-83 (product liability); *Perkins v. Clark Equipment Co.*, 823 F.2d 207 (8th Cir. 1987), reprinted at pp. 405-07 (product liability); and *In re "Agent Orange" Product Liability Litigation*, 580 F. Supp. 690 (E.D.N.Y. 1984), reprinted at pp. 565-76 (mass tort).

35. For example, a diagram at p. 307 separates strands of law, policy, and interest-generating facts found in the famous case of *Alabama Great Southern Railroad Co. v. Carroll*, 11 So. 803 (Ala. 1892) reprinted at pp. 219-21. Students should find this technique quite helpful. It is reminiscent of some of the authors' earlier work. See, e.g., William Richman, *Diagramming Conflicts: A Graphic Understanding of Interest Analysis*, 43 OHIO ST. L.J. 317 (1982); RICHMAN & REYNOLDS, *supra* note 24, at 178-96.

36. The end of the book contains about 125 pages of short problems. They look good and are perhaps more numerous than those found in any other casebook. It is wrong, however, for professors to be left as much in the dark about these problems as their students. As their creator, see p. vii, Professor Vernon must have in mind certain uses for and answers to the problems. Perhaps he will eventually prepare a manual sharing that information with those who adopt his book.

likely to welcome periodic assignments from this problem set as a respite from case method work.<sup>37</sup>

Scholarship on choice of law is full of controversy, and the literature (including some casebooks) can be quite doctrinaire. I was pleased, then, to discover that this book did not attempt to foreclose discussion in controversial areas.<sup>38</sup> The same holds true for the later portion of the book dealing with choice of law and the Constitution. The book faced a great challenge here. "I think it difficult to point to any field," wrote Justice Jackson, "in which the Court has more completely demonstrated or more candidly confessed the lack of guiding standards of a legal character than in trying to determine what choice of law is required by the Constitution."<sup>39</sup>

The picture has not improved. During the past decade, numerous commentators have dissected tangled Supreme Court opinions. The new casebook lays open the possibilities. It focuses on the Full Faith and Credit and Due Process Clauses, traditional inspirations for regulating choice of law.<sup>40</sup> The book also considers how other parts of the Constitution, such as the Commerce Clause, might apply to regulate choice of law (pp. 448-59).

A new casebook offers a certain advantage for those teaching any course for the first time, since the material should be fresh, complete, and located in just one book with no supplement. This holds true for the Vernon, Weinberg, Reynolds, and Richman casebook. With it,

37. While it is doubtful whether the problem method should be the primary teaching mode for conflicts, it seems clear that students respond positively to problem intervals in case method teaching — particularly upper-year students. For general discussion of the problem method, see Gregory L. Ogden, *The Problem Method in Legal Education*, 34 J. LEGAL EDUC. 654 (1984). On the peculiar advantages of problem assignments in a conflicts course, see Gene R. Shreve, *Bringing the Educational Reforms of the Cramton Report into the Case Method Classroom — Two Models*, 59 WASH. U. L.Q. 793, 802-06 (1981).

38. For example, the discussion that I take to be by Professor Weinberg of the "anti-modernist" position (pp. 384-85) is informative and respectful, even though that position is at odds with her own view. For the latter, see Louise Weinberg, *The Place of Trial and the Law Applied: Overhauling Constitutional Theory*, 59 U. COLO. L. REV. 67 (1988).

39. Robert H. Jackson, *Full Faith and Credit — The Lawyer's Clause of the Constitution*, 45 COLUM. L. REV. 1, 16 (1945).

40. E.g., *Allstate Ins. Co. v. Hague*, 449 U.S. 302, 320 (1981) (Stevens, J., concurring); *Phillips Petroleum Co. v. Shutts*, 472 U.S. 797, 816-817 (1985). Views differ concerning the extent to which these clauses warrant intervention into the choice-of-law process. Compare James R. Pielemeier, *Why We Should Worry About Full Faith and Credit to Laws*, 60 S. CAL. L. REV. 1299 (1987) (arguing for the development of extensive regulatory doctrine); Terry S. Kogan, *Toward a Jurisprudence of Choice of Law: The Priority of Fairness over Comity*, 62 N.Y.U. L. REV. 651 (1987) (same) with Gene R. Shreve, *In Search of Choice-of-Law Reviewing Standard — Reflections on Allstate Insurance Co. v. Hague*, 66 MINN. L. REV. 327 (1982) (arguing that the full faith and credit and due process clauses should continue to play only a minor role); Gene R. Shreve, *Interest Analysis as Constitutional Law*, 48 OHIO ST. L.J. 51 (1987) (same).

and with the fine reference materials<sup>41</sup> and mind-stretching articles<sup>42</sup> that exist for the subject, first-time conflicts professors should have the help they need.

For experienced conflicts professors, the prospect of adopting this book may carry an added complication. To break in a different casebook costs valuable time and effort, and it usually causes the professor a small but disagreeable amount of classroom fumbling. This is why, as many disappointed publishers' representatives will attest, I hate to change casebooks. For conflicts, I have used successive editions of the same book since 1975. It is a measure of my regard for the Vernon, Weinberg, Reynolds, and Richman book that I switched to it this past fall. This essay has sketched some of the reasons for that decision. In short, this casebook is too attractive to pass up.

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41. Standard texts include ROBERT A. LEFLAR ET AL., *AMERICAN CONFLICTS LAW* (4th ed. 1986); RICHMAN & REYNOLDS, *supra* note 24; EUGENE F. SCOLES & PETER HAY, *CONFLICT OF LAWS* (1982); RUSSELL J. WEINTRAUB, *COMMENTARY ON THE CONFLICT OF LAWS* (2d ed. 1980). For an excellent recent survey, see P. John Kozyris & Symeon C. Symeonides, *Choice of Law in the American Courts in 1989: An Overview*, 38 AM. J. COMP. L. 601 (1990).

42. E.g., Lea Brilmayer, *Rights, Fairness, and Choice of Law*, 98 YALE L.J. 1277 (1989); Michael Gottesman, *Draining the Dismal Swamp: The Case for Federal Choice of Law Statutes*, 80 GEO. L.J. 1 (1991); Larry Kramer, *Rethinking Choice of Law*, 90 COLUM. L. REV. 277 (1990); Joseph W. Singer, *A Pragmatic Guide to Conflicts*, 70 B.U. L. REV. 731 (1990); Symposium, *New Directions in Choice of Law: Alternatives to Interest Analysis*, 24 CORNELL INTL. L.J. 195 (1991); Louise Weinberg, *Against Comity*, 80 GEO. L.J. 53 (1991).