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Spencer E. Irons
University of Michigan Law School

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FEDERAL COURTS — CONFLICT OF LAWS — DUTY OF FEDERAL COURT TO APPLY STATE CONFLICT OF LAWS RULES — In a suit on a contract brought in the United States District Court in Delaware, based on diversity of citizenship, the court allowed interest costs on the basis of the Civil Practice Act of New York where the contract was made.¹ The Circuit Court of Appeals for the Third Circuit affirmed the ruling upon the ground that it was the best rule, without regard to the Delaware conflicts law.² On certiorari, *held* reversed, on the ground that the doctrine of *Erie Railroad v. Tompkins*³ prohibits such an independent determination by the federal court of conflict of laws rules. *Klaxon Co. v. Stentor Electric Mfg. Co.*, (U. S. 1941) 61 S. Ct. 1020.

When the decision in the *Erie Railroad* case abruptly swept away the whole doctrine of *Swift v. Tyson*⁴ and the associated idea of a "general law" existing apart from the laws of the states⁵ one of the many questions left unanswered

¹ *Stentor Electric Mfg. Co. v. Klaxon Co.*, (D. C. Del. 1939) 30 F. Supp. 425.

² *Stentor Electric Mfg. Co. v. Klaxon Co.*, (C. C. A. 3d, 1940) 115 F. (2d) 268.

³ 304 U. S. 64, 58 S. Ct. 817 (1938).

⁴ 16 Pet. (41 U. S.) 1 (1842).

⁵ Sec. 34 of the Federal Judiciary Act of Sept. 24, 1789, c. 20, 1 Stat. L. 73 at 92, 28 U. S. C. (1934), § 725, provides: "the laws of the several states, except where the constitution, treaties or statutes of the United States shall otherwise require or pro-

was how to determine the proper rules to apply in conflict of laws cases.⁶ Under *Swift v. Tyson*, the federal courts had applied to conflicts cases, as well as to torts and commercial law cases, their own ideas as to the correct interpretation of the common law. When this interpretation differed from the rule of the state where the federal court was sitting, a possibility existed that the result in a particular case would depend entirely upon the accident of whether or not there was diversity of citizenship between the parties. To avoid the resulting lack of uniformity within a single state which the *Erie Railroad* doctrine was specifically designed to prevent,⁷ it is necessary to extend the doctrine to conflict of laws questions.⁸ This may occasionally force a federal court to apply a state conflicts rule which is undesirable in that the result in a particular case may depend upon the state in which the action happens to have been brought, but even this situation is preferable to having the result in the case vary within the same state, depending upon whether the suit was brought in the state or federal court.⁹ The determination that the federal courts must apply the conflicts rules of the states where they are sitting may lead to a labelling of conflicts rules for this purpose as "substantive." This would cause confusion where the state court had called the conflicts rules "procedural," but it is clear that the label which the state court applies should have no binding effect upon the action of the federal court.¹⁰

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vide, shall be regarded as rules of decision in trials at common law in the courts of the United States in cases where they apply." In 1842, *Swift v. Tyson*, 16 Pet. (41 U. S.) 1 (1842), held that "laws of the several states" in this statute was limited to state statutes, and to strictly local law, and that matters of "general law," such as contract, tort, and commercial law, should be decided independently by the federal courts on the basis of their interpretation of the common law. The *Erie Railroad* case, in 1938, specifically overruled this doctrine.

⁶ In the *Erie Railroad* case the question whether the federal court was bound to apply the conflicts rule of the state where it was sitting was not considered, since the federal court sitting in New York was merely directed to apply Pennsylvania tort law, with no mention made as to whether the federal or the New York conflicts rule was to be applied to reach this result, because they were the same on this point.

⁷ *Erie Railroad v. Tompkins*, 304 U. S. 64 at 74-77, 58 S. Ct. 817 (1938).

⁸ It has been said that conflicts rules, as part of the common law of each state, should necessarily be applied by the federal courts, solely on the authority of the *Erie Railroad* case. GOODRICH, *CONFLICT OF LAWS*, § 12 (1938). The Supreme Court, however, a week after the *Erie Railroad* case was decided, expressly left the question open. *Ruhlin v. New York Life Insurance Co.*, 304 U. S. 202, 58 S. Ct. 860 (1938). For an exposition of what the lower federal courts have done with the question, and a thorough analysis of the problems involved, see the opinion in *Sampson v. Channell*, (C. C. A. 1st, 1940) 110 F. (2d) 754, where the same result is reached as in the principal case.

⁹ McCormick and Hewins, "The Collapse of 'General' Law in the Federal Courts," 33 ILL. L. REV. 126 at 138-139 (1938).

¹⁰ See Cook, "'Substance' and 'Procedure' in the Conflict of Laws," 42 YALE L. J. 333 at 341-344 (1933), where it is explained that there are at least eight different purposes for which substance and procedure are distinguished.