

FOREWORD

THE lectures contained in this volume were delivered at Ann Arbor in the course of the sessions of the Summer Institute on International and Comparative Law under the auspices of the University of Michigan Law School, August 5 to 21, 1949. As a part of the institute program that has been inaugurated with the encouraging support not merely of the Faculty of the Law School but also of many interested members of the bar—a program designed to supplement the ordinary course of legal studies through the exploration of “frontiers of the law” in lectures and discussions delivered or led by distinguished scholars and outstanding practitioners, to which the students in attendance at the School and the members of the profession are freely invited to participate—the Institute held in conjunction with the Summer Session of 1949 was devoted to an area of wide and increasing importance, the current developments of the laws affecting international trade.

In this broad subject matter, specific attention was given to the significant legal problems, both scientific and practical, arising in connection with international private transactions. On the one hand, a primary objective was to examine the existing methods of ascertaining the laws governing such transactions in the light of commercial needs and thereby to stimulate the development of appropriate conflict of laws rules. This Institute thus provided a forum for discussion of the various typical stages in the exchange of goods and services among different countries: international sales, transportation, financing, and their governmental regulation, as well as the related legal questions presented by the laws applying to assignment, agency, capacity, and jurisdiction. In the consideration of these matters, the contributions of leading representatives of the legal systems of England, France, Germany, and Italy, as well as of the United States, afforded a substantial comparative review of the viewpoints adopted in respect thereof by the principal commercial laws in the world. In addition, the concluding day of the Institute was devoted more generally to consideration of theoretical developments in the conflict of laws as a system of international rules. The lectures during this part of the program, forming a coherent, though doubtless incomplete, survey of the conflict of laws aspects of international contracts, are reproduced in the present volume. Perusal of these contributions will indicate their value as guideposts for future thinking about conflict of laws problems and policies in this country.

On the other hand, with a view to encouraging more adequate integration of business activities and governmental planning with scholarly studies in the sphere of international trade, the program of the Institute was high-

lighted by two weekend programs in which the discussions were led by a number of outstanding members of the bar and representatives of government agencies, especially conversant with the practical aspects of foreign trade. In particular, the specific difficulties encountered by firms engaged in foreign business, the methods employed in financing international transactions, the legal status of cooperatives in world trade, the place of private contracts under the Marshall Plan, and the proposed Havana Charter of the International Trade Organization, *inter alia* illustrate the subject matter with which these instructive and interesting sessions were concerned. Unfortunately, it has not been possible to include the papers and other contributions during this part of the program, primarily for want of space and equally since the subject matter deserves treatment, more comprehensive and detailed, than the scope of the program allowed.

The general theme of this Institute—the legal questions arising in connection with international contracts, particularly with reference to the choice of law by which the rights of the parties are to be defined—was selected in recognition of the completion of the manuscript for the third volume of the monumental comparative survey of the systems of conflict of laws on which the distinguished jurist, Ernst Rabel, founder and former director of the Institut der Kaiser Wilhelm Gesellschaft für ausländisches und internationales Privatrecht of Berlin, has been engaged at the University of Michigan Law School during the past decade. With this volume, which is scheduled to appear in the series of Michigan Legal Studies before these lectures are published, not only has the eminent author brought this long and exhaustive undertaking, courageously prosecuted in the face of not inconsiderable difficulties, to a stage well within sight of the goal, but he has covered the many conflicts problems arising in the area of international contracts, which is one of the most significant of all branches of law for international trade and in which the author's comparative researches for a number of years were concentrated. Such an achievement deserved suitable celebration.

The success of the Institute, undertaken in some measure as an experiment in this School in the Middle West, is due to the interest of all those who in one way or another participated. Special acknowledgment is due, among these, to Mr. Gilbert H. Montague, whose generosity made it possible to extend substantially the scope of the program, as well as to the other distinguished members of the bar who left busy offices or hard-earned vacations to lend their expert knowledge to the conferences. To those whose contributions appear in this volume, both the colleagues who came from other law schools in this country and the distinguished visitors who came

from afar to make possible a more comprehensive comparative survey of a critical branch of international private law, appreciative thanks are hereby expressed. Finally, as chairman of the committee in charge of the arrangements, the writer desires also to record the sympathetic co-operation of the University authorities, the constant support at all times (even while abroad) of Dean E. Blythe Stason, the advice cheerfully given by Professors W. W. Bishop, Jr. and John P. Dawson as members of the committee, the interest maintained, if in some cases with a dash of scepticism, by other members of the Faculty, and the invaluable assistance of William S. Barnes whose unremitting efforts as executive secretary to the committee displayed his talents and enthusiasm for integrating business practice and legal theory in comparative discussion of international problems. It is hoped that this Institute may be succeeded in the future by similarly fruitful comparative conferences covering successively other strategic frontiers of the law.

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