

# Table of Contents

---

	PAGE
FOREWORD BY WILLIAM DRAPER LEWIS, DIRECTOR, THE AMERICAN LAW INSTITUTE, AND HESSEL E. YNTEMA . . .	vii
PREFACE . . . . .	xxi
LIST OF ABBREVIATIONS . . . . .	xlv
PART ONE. INTRODUCTION . . . . .	I
CHAPTER 1. LITERATURE AND SOURCES OF CONFLICTS	
LAW . . . . .	3
I. Scope of Conflicts Law . . . . .	3
II. Literature . . . . .	6
1. The International Historical Background . . . . .	6
2. Modern Treatises . . . . .	11
England . . . . .	11
United States . . . . .	12
France and Belgium . . . . .	14
Italy . . . . .	16
Other Latin countries . . . . .	17
The Netherlands . . . . .	17
Germany . . . . .	17
Switzerland . . . . .	18
Greece . . . . .	19
3. New Orientation . . . . .	19
III. Sources . . . . .	26
1. Codifications . . . . .	26
2. Special Legislation . . . . .	28
3. Multilateral Treaties . . . . .	29
(a) Montevideo Treaties . . . . .	29
(b) Hague Conventions . . . . .	30
(c) <i>Código Bustamante</i> . . . . .	32

	PAGE
(d) Scandinavian Treaty . . . . .	33
(e) Conventions on Negotiable Instruments. . . . .	34
(f) Other multilateral efforts . . . . .	35
(g) Drafts . . . . .	36
4. Bilateral Treaties . . . . .	37
5. Case Law . . . . .	37
6. International Custom . . . . .	38
7. Conclusion . . . . .	40
 CHAPTER 2. STRUCTURE OF CONFLICTS RULES. . . . .	 42
I. The Parts of the Rule . . . . .	42
II. The First Part: The Object of the Rule . . . . .	45
III. Interpretation and Characterization . . . . .	47
1. <i>Lex Fori</i> . . . . .	47
2. <i>Lex Causae</i> . . . . .	48
3. Comparative Method . . . . .	49
IV. The Second Part: Reference to a Legal System. . . . .	60
1. The Nature of the Reference . . . . .	60
2. The Extent of the Reference . . . . .	63
 CHAPTER 3. THE DEVELOPMENT OF CONFLICTS LAW. . . . .	 68
I. Retarding Factors . . . . .	68
1. Preconceptions . . . . .	68
2. Renvoi . . . . .	70
3. Choice of Law by the Parties . . . . .	83
II. The Purpose of Conflicts Law . . . . .	87
1. Uniformity . . . . .	87
2. Policy Considerations . . . . .	89
III. Rationalization . . . . .	92
1. Special Rules . . . . .	92
2. Independent Conflicts Rules . . . . .	94
3. Internationalization . . . . .	96

# TABLE OF CONTENTS

xxvii

	PAGE
PART TWO. PERSONAL LAW OF INDIVIDUALS .....	99
CHAPTER 4. THE PERSONAL LAW .....	101
I. Nature and Scope of Personal Law .....	101
1. Personal Law Defined .....	101
Scope of the personal law .....	102
2. Legal Problems .....	105
Status .....	105
Prohibitive policy .....	106
Connection of a person with a given territory ..	107
3. Rationale .....	107
II. Contacts Determining the Personal Law .....	109
1. Domicil .....	109
(a) Domicil of origin .....	109
(b) Domicil of choice .....	110
(c) Domicil by operation of law .....	111
(d) Residence .....	111
2. Nationality .....	112
3. Mixed Systems .....	115
Switzerland .....	115
Austria .....	116
Latin America .....	117
III. Supplementary Rules .....	120
1. Multiple Nationality .....	120
2. Stateless Persons .....	122
3. Nationals of Countries with a Composite System of Private Law .....	124
Composite law on personal basis .....	124
Composite law on territorial basis .....	126
Conclusion .....	135
IV. Determination of Nationality and Domicil ...	136
1. Determination of Nationality .....	136

	PAGE
2. Determination of Domicil . . . . .	139
Variety of domicil concepts . . . . .	139
Which law decides? . . . . .	142
<i>Lex fori</i> . . . . .	143
V. Change of Personal Law . . . . .	147
1. Change of Nationality . . . . .	147
2. Change of Domicil . . . . .	148
VI. Rationale . . . . .	149
1. Tradition . . . . .	149
2. Political Considerations . . . . .	150
3. Economic Considerations; Migrations . . . . .	151
4. Practicability . . . . .	154
5. Efforts to Reach a <i>Modus Vivendi</i> Between the Two Principles . . . . .	155
6. Conclusion . . . . .	158
 CHAPTER 5. SPECIFIC APPLICATIONS OF THE PER- SONAL LAW . . . . .	 161
I. Personal Characteristics . . . . .	161
1. General Capacity to Have Rights and Duties. . . . .	161
2. Beginning and End of Personality . . . . .	163
3. Name . . . . .	168
(a) Individual name . . . . .	168
(b) Commercial name (firm) . . . . .	170
4. Status as Merchant . . . . .	170
5. Infancy . . . . .	172
II. Public Policy . . . . .	174
 CHAPTER 6. CAPACITY . . . . .	 179
I. Object of the Discussion . . . . .	179
II. The Law Governing Capacity . . . . .	182
1. Capacity Governed by the Law of the Place of Contracting . . . . .	182

## TABLE OF CONTENTS

xxix

PAGE

2. Capacity Governed by Personal Law . . . . .	185
3. Mixed Systems . . . . .	190
(a) English law . . . . .	190
(b) Former Italian system . . . . .	191
III. Problems Raised by Incapacitating Provisions of the Law of the Place of Contracting . . . . .	192
IV. Conclusions . . . . .	194
 PART THREE. MARRIAGE . . . . .	 197
 CHAPTER 7. MARRIAGE . . . . .	 199
I. Engagement to Marry . . . . .	199
1. Groups of Conflicts Rules . . . . .	199
2. Cases . . . . .	201
3. Public Policy . . . . .	203
4. Conclusion . . . . .	204
II. The Concept of Marriage in the Conflict of Laws . . . . .	204
1. Soviet Marriage . . . . .	205
2. Polygamous Marriage . . . . .	206
III. Formal Requirements of Marriage . . . . .	207
1. Survey of Problems: Requirements of Form and Intrinsic Validity Distinguished . . . . .	207
2. <i>Locus Regit Actum</i> . . . . .	210
(a) Compulsory rule . . . . .	211
(b) Optional rule . . . . .	211
(c) Rule modified by religious requirements. . . . .	213
3. The Law of the Place of Celebration as Ap- plied to Domestic Marriages . . . . .	216
General rule . . . . .	216
Apparent exceptions . . . . .	219
Consular marriages performed within the forum . . . . .	220

## TABLE OF CONTENTS

	PAGE
4. The Law of the Place of Celebration as Applied to Foreign Marriages . . . . .	222
In general . . . . .	222
Special problems . . . . .	223
(a) Common law marriages . . . . .	223
(b) Tribal marriage . . . . .	225
(c) Marriage by proxy . . . . .	225
Prevention of secret marriages . . . . .	226
(a) Provisions by the state of celebration . . . . .	226
(b) Banns prescribed by the personal law . . . . .	227
(c) Recordation prescribed by the personal law . . . . .	228
Defective celebration . . . . .	229
Evasion of formalities . . . . .	231
5. Religious Ceremony Considered Essential by the Personal Law . . . . .	232
Point of view of the personal law . . . . .	232
(a) Foreign civil marriage . . . . .	232
(b) Foreign religious marriage . . . . .	233
Point of view of the local law . . . . .	233
Point of view of third countries . . . . .	234
6. Other Tests . . . . .	236
Foreign consular marriage . . . . .	236
(a) In general . . . . .	236
(b) Authority granted by the sending state . . . . .	238
(c) Law of third states . . . . .	240
(d) Ceremony . . . . .	240
Marriage on the high seas . . . . .	241
Marriage in remote places . . . . .	241
Military marriages abroad . . . . .	241
IV. Conclusions . . . . .	242

# TABLE OF CONTENTS

xxxi

PAGE

CHAPTER 8.	SUBSTANTIVE REQUIREMENTS FOR MAR-	
	RIAGE . . . . .	243
I.	Survey . . . . .	243
1.	Terminology . . . . .	243
2.	Two Rival Basic Principles . . . . .	244
3.	Influence of Public Policy . . . . .	245
4.	Ecclesiastical Courts . . . . .	246
II.	Law of the Place of Celebration . . . . .	247
1.	The Principle . . . . .	247
	The United States . . . . .	247
	Argentina and others . . . . .	247
	Chile and others . . . . .	248
	Denmark . . . . .	249
	<i>Código Bustamante</i> . . . . .	250
	Switzerland . . . . .	250
	Soviet Russia . . . . .	251
2.	Exceptions: Prohibitive Public Policy . . . . .	251
	The United States: Policy of the forum . . . . .	251
	Policy of domicil . . . . .	252
	Denmark . . . . .	256
	Latin-American countries . . . . .	256
	Switzerland . . . . .	257
3.	Exceptions: Permissive Public Policy . . . . .	258
	The United States . . . . .	258
	Switzerland . . . . .	259
III.	Personal Law . . . . .	259
1.	The Primary Principle . . . . .	259
	Law of the domicil . . . . .	259
	National law . . . . .	261
	Renvoi . . . . .	262
2.	Problems Arising when Parties are Subject to Different Personal Laws . . . . .	263

## TABLE OF CONTENTS

	PAGE
Each law applied separately . . . . .	263
Minority opinions . . . . .	263
Doctrine of unilateral prohibitions . . . . .	264
(a) Age required for marriage . . . . .	265
(b) Consent in form but not in fact; defective intention . . . . .	265
(c) Consent of parents or guardians . . . . .	266
(d) Prohibition against remarriage . . . . .	269
(e) Impotence . . . . .	269
Doctrine of bilateral prohibitions . . . . .	270
(a) Social policy . . . . .	270
(b) Adultery . . . . .	270
(c) Impediments connected with religion. . . . .	271
(d) Sham marriages . . . . .	272
Time element . . . . .	273
3. Prohibitive Public Policy of the Country of Celebration . . . . .	275
The Hague Convention . . . . .	275
<i>Código Bustamante</i> . . . . .	276
Trend . . . . .	277
Effect of treaties and conventions . . . . .	279
4. Permissive Public Policy of the Country of Celebration . . . . .	279
The Hague Convention . . . . .	279
In general . . . . .	282
Relation to the forum . . . . .	283
Consequences of a state's acts . . . . .	284
5. Sanctions for the Fulfillment of Intrinsic Requirements . . . . .	284
Certificate of ability to marry . . . . .	284
Dispensation . . . . .	286
Effect of violation of personal law . . . . .	286
Evasion of directive requirements . . . . .	288
IV. Conclusions . . . . .	288



# TABLE OF CONTENTS

xxxiii

	PAGE
CHAPTER 9. PERSONAL EFFECTS OF MARRIAGE . . . . .	294
I. Effects of Marriage in General . . . . .	294
1. The Internal Conceptions . . . . .	294
2. Reaction on Conflicts Laws . . . . .	296
3. Personal Effects of Marriage . . . . .	298
II. Contacts . . . . .	299
1. Law of the Residence . . . . .	299
The United States . . . . .	299
Argentina . . . . .	300
2. Law of the Domicil . . . . .	300
3. Law of Nationality . . . . .	301
The problem . . . . .	301
Last common nationality . . . . .	302
Cumulative application of both national laws . . . . .	303
Emergency solutions . . . . .	304
4. Public Policy of the Forum . . . . .	305
Law of the wife . . . . .	305
French courts . . . . .	306
Procedural law . . . . .	307
III. Scope of the Rules . . . . .	308
1. Duties of Conjugal Life . . . . .	308
Domicil by operation of law . . . . .	309
2. Capacity of Married Persons . . . . .	311
Classification . . . . .	311
Married woman's capacity to contract . . . . .	314
Capacity to sue and be sued . . . . .	315
Right of the wife to carry on a business or en- gage in a profession . . . . .	316
Prohibition of certain transactions with third persons . . . . .	316
Protection of third persons . . . . .	317
3. Implied Authority: Legal Transactions Be- tween Husband and Wife . . . . .	318
Power to obligate the other spouse . . . . .	318

	PAGE
Prohibited transactions between husband and wife .....	320
4. Support .....	324
Application of the matrimonial law .....	324
<i>Lex fori</i> .....	325
Law of the debtor .....	326
Provisional decrees .....	326
5. Wife's lien .....	326
 CHAPTER 10. EFFECTS OF MARRIAGE ON PROPERTY .....	 328
I. Basic Conceptions .....	328
1. American Rules on Immovables .....	328
2. American Rules on Movables .....	329
3. Continental Rules on Marital Property Relations .....	330
4. Scope of the Marital Property Law .....	331
5. Relation Between the Marital Property Law and the <i>Lex Situs</i> .....	335
Necessary role of the <i>lex situs</i> .....	335
American conception of the <i>lex situs</i> .....	337
The <i>lex situs</i> in other countries .....	340
Louisiana rule .....	341
Deference of Continental countries to the Anglo-American rule of <i>lex situs</i> .....	342
Rationale .....	342
II. Theory of Implied Contract .....	343
1. French Practice .....	343
(a) Method and result of French cases .....	344
(b) Influence of the French doctrine on other countries .....	345
(c) Influence on America .....	347
(d) Opposition to French practice .....	347

## TABLE OF CONTENTS

xxxv

	PAGE
III. Contacts . . . . .	348
1. Domicil . . . . .	348
2. Nationality . . . . .	349
3. Law of the Place of Celebration . . . . .	352
4. Renvoi . . . . .	352
IV. The Problem of Mutability: Change of Personal Law During Coverture . . . . .	354
1. Change in Legislation . . . . .	354
2. Change in Status . . . . .	354
3. The Principles . . . . .	355
(a) Full mutability . . . . .	355
(b) Mutability of new acquisitions . . . . .	356
(c) Immutability . . . . .	357
4. Exception: New Marriage Settlements . . . . .	359
5. Classification . . . . .	361
6. Renvoi . . . . .	362
7. Rationale . . . . .	362
V. Marriage Settlements . . . . .	364
1. Characterization . . . . .	364
2. Permissibility . . . . .	364
3. Formalities . . . . .	366
4. Capacity . . . . .	367
5. Mutability . . . . .	368
6. Settlements Concerning Immovables . . . . .	369
7. Obligatory Settlements . . . . .	370
VI. Protection of Third Parties . . . . .	370
1. No Exception to the Personal Law . . . . .	371
2. Exception with Respect to Third Persons . . . . .	371
3. Exception in Favor of Third Persons in Good Faith . . . . .	372
VII. Questions of Classification . . . . .	373
1. Composition of Community Property . . . . .	373

	PAGE
2. Marital Property and Inheritance . . . . .	374
(a) Importance of defining limits of each field . . . . .	374
(b) Rights and expectancies distinguished.	377
(c) Coordination of the two fields in munici- pal legislation . . . . .	379
 PART FOUR. DIVORCE AND ANNULMENT.	 383
 CHAPTER 11. DIVORCE . . . . .	 385
I. The Problem of Foreign Divorce . . . . .	385
1. Aspects of the Problem . . . . .	385
2. Diversity of Divorce Legislation . . . . .	387
3. Divergence in Method . . . . .	390
4. Predominance of <i>Lex Fori</i> . . . . .	392
5. "Migratory" Divorce . . . . .	393
6. Ex Parte Proceedings . . . . .	395
II. Jurisdiction . . . . .	396
1. Nationality as Basis . . . . .	397
2. Domicil as Basis . . . . .	399
(a) Common domicil . . . . .	400
(b) Presumption of common domicil . . . . .	401
(c) Admission of separate domicil for mar- ried women . . . . .	403
3. Restrictions on the Assumption of Jurisdic- tion . . . . .	407
(a) Additional requirements . . . . .	407
(b) Conformity to National Law . . . . .	410
The Hague Convention . . . . .	410
Germany . . . . .	411
Switzerland . . . . .	412
4. Religious Divorce . . . . .	413

## TABLE OF CONTENTS

xxxvii

	PAGE
III. Common Scope of the <i>Lex Fori</i> . . . . .	416
1. Procedure . . . . .	416
2. Decrees . . . . .	417
3. Validity of the Marriage Prerequisite . . . . .	419
IV. Choice of Law . . . . .	422
1. <i>Lex Fori</i> . . . . .	422
United States . . . . .	422
Other countries . . . . .	424
Latin American treaties . . . . .	425
2. Diverse Contacts . . . . .	426
3. National Law Cumulatively Applied with the <i>Lex Fori</i> . . . . .	427
France and others . . . . .	428
V. Application of the Nationality Principle . . . . .	429
1. Permissibility of Divorce and Grounds for Divorce Distinguished . . . . .	429
2. Permissibility of Divorce . . . . .	430
(a) Under the law of the forum . . . . .	430
(b) Under the national law . . . . .	432
(c) Separation . . . . .	433
3. Grounds for Divorce . . . . .	436
Permissive policy . . . . .	439
4. Different National Laws . . . . .	440
National law of the husband . . . . .	440
Last common nationality . . . . .	441
Both laws cumulatively . . . . .	441
The law of the plaintiff . . . . .	441
VI. Renvoi . . . . .	446
VII. Change of Domicil or Nationality . . . . .	449
1. Change of Factor Determining Jurisdiction . . . . .	449
2. Change of Factor Determining the Choice of Law After Beginning of Litigation . . . . .	450

	PAGE
3. Changes of Factor Determining Choice of Law Before the Divorce Suit Is Brought . .	451
VIII. Conclusions . . . . .	458
 CHAPTER 12. RECOGNITION OF FOREIGN DIVORCE . .	 462
I. Individual Systems . . . . .	463
1. England . . . . .	463
2. The United States . . . . .	465
3. France . . . . .	471
4. Germany . . . . .	475
5. Soviet Union . . . . .	478
6. The Hague Convention on Divorce . . . . .	479
7. Latin-American Conventions . . . . .	479
8. The Scandinavian Convention on Family Law of 1931 . . . . .	480
9. Bilateral Treaties . . . . .	481
II. Particular Problems . . . . .	482
1. Scope of Recognition as Contrasted with En- forcement . . . . .	482
2. Scope of <i>Res Judicata</i> . . . . .	484
3. Divorce Without Judicial Litigation . . . . .	485
Recent Soviet legislation . . . . .	490
4. Jurisdiction and Procedure of the Divorce Court . . . . .	491
(a) Exclusive jurisdiction . . . . .	491
(b) International jurisdiction . . . . .	492
(c) International treaties . . . . .	493
(d) Opportunity for defense . . . . .	494
5. Anti-Divorce Policy of the Forum . . . . .	496
(a) Nationals of the forum . . . . .	496
(b) Marriage celebrated within the forum . . . . .	498
(c) Foreigners . . . . .	500
(d) Bigamy . . . . .	501

## TABLE OF CONTENTS

xxxix

	PAGE
6. Requirement of Similar Grounds . . . . .	502
7. Evasion . . . . .	504
(a) Fictitious change of personal law . . . . .	504
(b) Fictitious change of domicil . . . . .	505
(c) Fictitious change of nationality . . . . .	507
(d) Effective change of personal law . . . . .	508
8. Additional Application of Public Policy . . . . .	511
9. Renvoi . . . . .	511
III. Conclusions . . . . .	513
CHAPTER 13. EFFECTS OF DIVORCE . . . . .	517
I. Effects of Non-Recognized Foreign Divorces . . . . .	517
1. View of the Country of Divorce and of Third States . . . . .	517
2. View of the Personal Law . . . . .	519
II. Effects of Valid Divorces . . . . .	521
1. Effects on Personal Relations between Hus- band and Wife . . . . .	523
(a) Name, capacity, gifts, et cetera . . . . .	523
(i) The law of the forum . . . . .	523
(ii) The law of divorce . . . . .	524
(b) Alimony following a foreign divorce . . . . .	525
2. Effects on Marital Property . . . . .	529
3. Custody of Children . . . . .	531
CHAPTER 14. ANNULMENT OF MARRIAGE . . . . .	535
I. Annulment Distinguished from Divorce . . . . .	535
II. Annulment of the Marriage of Foreigners . . . . .	537
1. Jurisdiction . . . . .	537
(a) Court of the place of celebration . . . . .	537
(b) Court of the domicil . . . . .	538
(c) Court of the national country . . . . .	539

	PAGE
2. Applicable Law .....	540
(a) Rule .....	540
(b) Policy of the forum in favor of marriage .....	541
(c) Policy of the forum against the marriage .....	541
(d) Adjustment of the applicable law ....	542
III. Recognition of Foreign Annulments .....	543
IV. Effects of Annulment .....	544
1. Partly Effectual Void Marriage .....	544
2. Protection of Third Parties .....	550
 PART FIVE. PARENTAL RELATIONS .....	 553
 CHAPTER 15. PARENT AND CHILD .....	 555
I. Preliminary Observations .....	555
1. Subject Matter .....	555
2. Institutions Involving an Act of a Party ....	556
3. Liberal Trends .....	559
II. Legitimate Birth .....	559
A. Rules .....	559
1. Personal Law of the Parent .....	559
Contacts: domicile or nationality ..	560
2. Personal Law of the Child .....	561
3. Time Governing Ascertainment of Applicable Law .....	562
4. Soviet Russia .....	564
B. Scope of the Rules .....	565
1. Validity of Marriage as Condition ..	565
2. Presumptions of Legitimacy .....	566
3. Public Policy .....	567
C. Children of Invalid Marriages .....	568
(a) United States: general rule ....	568
(b) England .....	568



TABLE OF CONTENTS

xli

	PAGE
(c) Germany .....	570
(d) Other countries .....	570
III. Legitimation by Subsequent Marriage .....	571
A. Rules .....	571
1. Decisive Time .....	571
2. Contacts: Usual Rules .....	574
(a) Law of Domicil .....	574
(b) Law of Nationality .....	575
3. Personal Law of the Child .....	575
4. Rules on Effects of Legitimation .....	577
5. Renvoi .....	577
6. Soviet Russia .....	578
B. Scope .....	578
1. Validity of the Marriage .....	578
2. Conditions and Effects of Legitimation .....	579
3. Invalid Subsequent Marriage .....	580
4. Acquisition of Nationality .....	581
5. Prohibitive Public Policy of the Forum .....	582
(a) United States .....	582
(b) England .....	583
(c) Continent .....	583
6. Permissive Public Policy of the Forum .....	585
7. Law of Situs .....	585
IV. Legitimation by Other Acts .....	586
1. United States .....	587
2. England .....	587
3. National Law of Parent .....	588
4. Argentine Doctrine .....	589
V. Recognition of Foreign Legitimation .....	589
1. Validity of Legitimation as a Preliminary Question .....	589
2. Effect of Foreign Legitimation on Inherit- ance Rights .....	592

	PAGE
VI. Relations Between Legitimate Parents and Child .....	592
A. Rules .....	592
1. Personal Law of Father .....	593
2. Cases of Different Nationalities .....	594
3. Renvoi .....	596
B. Scope of the Rules .....	596
1. Maternal Rights .....	596
2. Personal Care .....	597
3. Duty of Providing a Dowry .....	598
4. Protecting Interference by Courts ..	598
5. Parental Interest in Child's Property.	600
6. Authority of Parent .....	602
7. Duties of Support .....	603
8. Determination of Domicil of the Child	604
Characterization .....	605
9. Tort .....	606
C. Change of Status .....	606
1. Mutability of Incidents of the Child's	
Status .....	606
2. Different Personal Laws .....	607
3. Non-retroactivity .....	608
CHAPTER 16. ILLEGITIMATE CHILDREN .....	610
I. Mother and Child .....	610
1. Contacts .....	610
2. Scope .....	611
Change of Status .....	613
II. Father and Child .....	613
1. Classification .....	613
2. Contacts .....	616
3. Public Policy .....	618
4. Time Element .....	622
5. Renvoi .....	623

## TABLE OF CONTENTS

xliii

	PAGE
III. Recognition of a Child . . . . .	624
1. Formalities . . . . .	624
2. Substantive Requirements . . . . .	625
3. Scope . . . . .	626
IV. Mother and Father . . . . .	628
V. Conclusions . . . . .	629
CHAPTER 17. ADOPTION . . . . .	632
I. Preliminary Observations . . . . .	632
1. Definition of Adoption . . . . .	632
2. Jurisdiction and Choice of Law . . . . .	635
II. Adoption of or by Foreigners Within the Forum. . . . .	637
1. Law of the Forum . . . . .	637
(a) United States . . . . .	637
(b) British Law . . . . .	638
(c) Scandinavian Countries . . . . .	639
(d) Law of the forum governing formalities everywhere . . . . .	639
2. Systems of Personal Law . . . . .	641
(a) Law of the adopter . . . . .	641
(b) Consideration of the child's law . . . . .	642
(c) Exclusive application of the child's personal law . . . . .	643
(d) Both laws cumulatively applied . . . . .	643
(e) Special rules on the effect of adoption . . . . .	644
III. Recognition of Foreign Adoption . . . . .	645
1. Conditions of Recognition . . . . .	645
2. Effects of Recognition . . . . .	648
3. Effect on Inheritance Rights in Particular . . . . .	653
(a) Construction of language . . . . .	653
(b) Major rights acquired by foreign act . . . . .	654
(i) Law of situs of immovables . . . . .	654
(ii) Local policy . . . . .	655

## TABLE OF CONTENTS

	PAGE
(c) Major rights granted by the statute of distribution .....	657
TABLES .....	659
BIBLIOGRAPHY .....	661
TABLE OF STATUTES .....	675
TABLE OF ANGLO-AMERICAN CASES .....	715
INDEX .....	731

## List of Abbreviations

---

A.C.	Appeal Cases, English Law Reports.
AG.	Amtsgericht (Germany).
All. E.R.	All England Law Reports, Annotated.
Allg. BGB.	Allgemeines Bürgerliches Gesetzbuch (Austria).
A.L.R.	American Law Reports, Annotated.
Am. Dec.	American Decisions (Select Cases).
Am. J. Int. Law	American Journal of International Law.
Am. Rep.	American Reports.
Amtl. S.	Entscheidungen des k.k. Obersten Gerichtshofs in Zivil-und Justizverwaltungssachen veröf- fentlicht von diesem Gerichtshofe, Fortsetz- ung der von Nowak begründeten Sammlung (Austria).
Anales Jud.	Anales Judiciales de la Corte Suprema de Justicia (Peru).
Ann. Giur. Ital.	Annali di giurisprudenza.
Ann. Sächs. OLG.	Annalen des sächsischen Oberlandesgerichts.
Annuaire	Annuaire de l'Institut de droit international.
Annuario Dir.	Annuario di diritto comparato e di studi legis- lativi.
Comp.	
App. Cas.	Appeal Cases, English Law Reports, 1876- 1890.
App. Civ.	Apelação Civil (Brazil).
App. Div. (N.Y.)	New York Supreme Court, Appellate Division Reports.
Arch. Civ. Prax.	Archiv für die civilistische Praxis (Germany).
Arch. Jud.	Arquivo Judiciario (Brazil).
Ariz.	Arizona Reports.
Atl.	Atlantic Reporter (National Reporter System, United States).
Barn. & C.	Barnewall and Cresswell, English King's Bench Reports.
Bay.ObLGZ.	Sammlung von Entscheidungen des Bayer- ischen Obersten Landesgerichts in Zivil- sachen.

BBl.	Bundesblatt der Schweizerischen Eidgenossenschaft.
B.C.	British Columbia Reports.
Beav.	Beavan, English Rolls Court Reports.
Belg. Jud.	Belgiques judiciaire. Gazette des tribunaux belges et étrangers.
BGB.	Bürgerliches Gesetzbuch (Germany).
BGE.	Entscheidungen des Schweizerischen Bundesgerichtes, Amtliche Sammlung.
Bing. N.C.	Bingham, New Cases, English Common Pleas.
Bl.f.Zürch.Rspr.	Blätter für zürcherische Rechtsprechung.
Brit. Year Book Int. Law	British Year Book of International Law.
Brooklyn L. Rev.	Brooklyn Law Review.
Bull. Argent. de Droit Int. Privé	Bulletin Argentin de droit international privé.
Bull. Inst. Belge	Institut Belge de droit comparé, Bulletin trimestriel. (See also Revue Inst. Belge).
Bull. Inst. Int.	Bulletin de l'Institut juridique international. Leyde. Originally: Bulletin de l'Institut intermédiaire international.
Bull. Soc. d'Études Lég.	Bulletin de la Société d'études législatives (France).
Bull. Soc. Législ. Comp.	Bulletin de la Société de législation comparée (France).
B.U.L. Rev.	Boston University Law Review.
Bush (Ky.)	Bush, Kentucky Reports.
BW.	Burgerlijk Wetboek (the Netherlands).
Cal. App.	California Appeals Reports.
Cal. L. Rev.	California Law Review.
Cambr. L. J.	Cambridge Law Journal.
Can. Bar Rev.	Canadian Bar Review.
C.B.	Common Bench Reports, Court of Common Pleas.
C.C.	Código Civil, Civil Code, Code Civil.
C. Civ. Proc.	Code of Civil Procedure.
Ch. D.	Chancery Division, English Law Reports, 1876-1890.
Chi. Kent Rev.	Chicago Kent Review.

C.J.S.	Corpus Juris Secundum (United States).
Cl. and F.	Clark and Finnely's Reports, House of Lord's Cases.
Clunet	Journal du droit international. Fondé par Clunet, continué par André-Prudhomme.
Col. L. Rev.	Columbia Law Review.
Colo.	Colorado Reports.
Conn.	Connecticut Reports.
Conn. B. J.	Connecticut Bar Journal.
Cornell L.Q.	Cornell Law Quarterly.
Cr. & St.	Craigie & Stewart, House of Lords Reports (Scotland).
Craig. & St.	Craigie, Stewart and Paton, Appeals Cases (Scotland).
Curt. Ecc.	Curteis, English Ecclesiastical Reports.
D.	Dalloz, Recueil périodique et critique de jurisprudence, de législation et de doctrine (France).
D. & C. (Pa.)	District and County Reports, Pennsylvania.
D.C.	District of Columbia.
Dem. Sur. (N.Y.)	Demarest's Surrogate Reports, New York.
D.H.	Dalloz, Recueil hebdomadaire de jurisprudence (France).
Disp. Prel.	Disposizioni Preliminari del Codice civile (Italy).
Dist. Haw.	District of Hawaii.
Distr. Fed.	Districto Federal (Brazil).
DJZ.	Deutsche Juristenzeitung.
D.L.R.	Dominion Law Reports (Canada).
Dt. Justiz	Deutsche Justiz. Amtliches Blatt der deutschen Rechtsflege.
Dt. Recht	Deutsches Recht. Zentralorgan des national-socialistischen Rechtswahrerbundes.
EG. BGB.	Einführungsgesetz zum Bürgerlichen Gesetzbuch (Germany).
Els. Lothr. J.Z.	Juristische Zeitschrift für Elsass-Lothringen.
Eng. Rep.	Moak, English Reports (American reprint).
Entsch. kgl. Ob. Trib.	Entscheidungen des königlichen geheimen Obertribunals, 1837-1879 (Prussia).
Esp.	Espinasse, English Nisi Prius Reports.

F.(2d)	Federal Reporter, Second Series (United States).
F.C.A.	Federal Code Annotated.
Fed.	Federal Reporter (United States).
Fed. Cas.	Federal Cases (United States).
Foro Ital.	Il Foro Italiano.
Foro Ital. Rep.	Il Foro Italiano, Repertorio.
F.Supp.	Federal Supplement (United States).
Gac. del foro	Gaceta del foro; jurisprudencia, legislación, doctrina (Argentina).
Gaz. Jur. S. Paulo	Gazeta Jurídica; revista mensal de legislação, doutrina e jurisprudencia do Estado de São Paulo.
Gaz. Pal.	Gazette du Palais (France).
Gaz. Trib.	Gazette des Tribunaux (France).
Gaz. Trib. Mixtes	Gazette des Tribunaux Mixtes d'Egypte.
Geller's Zentralblatt	Zentralblatt für die Juristische Praxis, begründet von Dr. L. Geller (Austria). (See also Zentralblatt).
Giur Comp. DIP.	Giurisprudenza comparata di diritto internazionale privato.
Giur. Comp. Dir. Civ.	Giurisprudenza comparata di diritto civile.
Giur. Ital.	Giurisprudenza italiana.
G.L.R.	Gazette Law Reports (New Zealand).
GIU.	Sammlung von zivilrechtlichen Entscheidungen des Obersten Gerichtshofes, begründet von Glaser und Unger (Austria).
GIU. NF.	<i>Idem</i> , Neue Folge (new series of the court reports cited above) (Austria).
Grant (Pa.)	Grant's Cases (Pennsylvania).
Gratt. (Va.)	Grattan's Virginia Reports.
Grotius	Grotius, <i>Annuaire international</i> .
Grotius Soc.	Transactions of the Grotius Society.
Gruchot's Beiträge	Beiträge zur Erläuterung des deutschen Rechts, begründet von Dr. J. A. Gruchot.
Grünhut's Z.	Zeitschrift für das Privat- und Öffentliche Recht der Gegenwart, herausgegeben von Dr. C. S. Grünhut (Austria).
Hag. Con.	Haggard, English Consistory Reports.



Hans.GZ.	Hanseatische Gerichtszeitung. (See also Hans. RGZ. and Hans. RZ.)
Hans.RGZ.	Hanseatische Rechts- und Gerichts-Zeitschrift.
Hans.RZ.	Hanseatische Rechts-Zeitschrift.
Harv. L. Rev.	Harvard Law Review.
How.	Howard, United States Supreme Court Reports.
H.R.	Hooge Raad (the Netherlands).
HRR.	Höchstrichterliche Rechtsprechung (Germany).
Humph.	Humphreys' Tennessee Reports.
Ia.	Iowa Reports.
Ill.	Illinois Reports.
Ill. L. Rev.	Illinois Law Review.
Ind. App.	Indiana Appellate Court Reports.
IPRspr.	Die Deutsche Rechtsprechung auf dem Gebiete des internationalen Privatrechts. Beilage der Zeitschrift für ausländisches und internationales Privatrecht (Z.ausl.PR.).
J.A.	Revista de Jurisprudencia Argentina.
Jahrb.DR.	Jahrbuch des Deutschen Rechts.
Jahrb. FG.	Jahrbuch für Entscheidungen in Angelegenheiten der freiwilligen Gerichtsbarkeit und des Grundbuchrechts (Germany).
Jahrb. H.E.	Jahrbuch höchstrichterlicher Entscheidungen (Austria).
J.Bl.	Juristische Blätter (Austria).
J. d. Tr.	Journal des Tribunaux (Belgium).
Jherings Jahrb.	Jherings Jahrbücher für die Dogmatik des bürgerlichen Rechts (Germany).
Johns. Cas. (N.Y.)	Johnson's New York Cases.
Journ. Comp. Leg.	Journal of Comparative Legislation and International Law. Formerly Journal of Society of Comparative Legislation (England).
Jur. Comm. Brux.	Jurisprudence commerciale de Bruxelles.
Jurid. Rev.	Juridical Review (Scotland).
Jur. Liège	Jurisprudence de la cour d'appel de Liège.
JW.	Juristische Wochenschrift (Germany).
Kan.	Kansas Reports.

K.B.	English Law Reports, King's Bench.
Kentucky L. J.	Kentucky Law Journal.
Kg.	Kantongerecht (the Netherlands).
KG.	Kammergericht (Germany).
K. & J.	Kay & Johnson, English Vice-Chancellors' Reports.
Ky.	Kentucky Reports.
Ky. (B. Mon.)	B. Monroe's Kentucky Reports.
La.	Louisiana Reports.
La. Ann.	Louisiana Annual Reports.
La. L. Rev.	Louisiana Law Review.
Law and Cont. Probl.	Law and Contemporary Problems. School of Law. Duke University.
Law Q. Rev.	Law Quarterly Review (England).
L.C.J.	Lower Canada Jurist.
Leipz. Z.	Leipziger Zeitschrift für Deutsches Recht.
L.J. (Ch.)	Law Journal Reports, Chancery (England).
L.J. (P.C.)	Law Journal Reports, Privy Council (England).
L.J.P.D. & A.	Law Journal, New Series, Probate, Divorce and Admiralty (England).
L.R.A.	Lawyers' Reports, Annotated (United States).
L.R.C.C.R.	English Law Reports Crown Cases Reserved, 1866-1875.
L.R.I.Eq.	Law Reports, Irish Equity Series.
L.R.P. & D.	English Law Reports, Probate and Divorce.
L.T.R.	Law Times Reports (England).
MacArthur	MacArthur, District of Columbia Reports.
Man. R.	Manitoba Reports (Canada).
Mart. N.S. (La.)	Martin, Louisiana Reports, New Series. 1823-1830.
Mart. O.S. (La.)	Martin, Louisiana Reports. Old Series. 1811-1823.
Md.	Maryland Reports.
Mich. L. Rev.	Michigan Law Review.
Minn.	Minnesota Reports.
Minn. L. Rev.	Minnesota Law Review.
Miss. L.J.	Mississippi Law Journal.
Mo.	Missouri Reports.
Mo. App. Rep.	Missouri Appellate Reports.
Monitore	Monitore dei Tribunali.

## LIST OF ABBREVIATIONS

li

Moore P.C.	Moore, English Privy Council Reports.
NAG.	Bundesgesetz betreffend die zivilrechtlichen Verhältnisse der Niedergelassenen und Aufenthalter (Switzerland).
N.C.	North Carolina Reports.
N.E.	Northeastern Reporter (National Reporter System, United States).
Neb.	Nebraska Reports.
Neb. L. Bull.	Nebraska Law Bulletin.
Neb. L. Rev.	Nebraska Law Review.
N.H.R.	New Hampshire Reports.
N.J.	Nederlandsche Jurisprudentie.
N.J.Eq.	New Jersey Equity Reports.
N.J.Misc.	New Jersey Miscellaneous Reports.
Nouv. Revue	Nouvelle Revue de droit international privé.
N.W.	Northwestern Reporter (National Reporter System, United States).
N.Y.	New York Court of Appeals Reports.
N.Y.Misc.	New York Miscellaneous Reports.
N.Y.St.Rep.	New York State Reporter.
N.Y.Supp.	New York Supplement Reports (National Reporter System, United States).
N.Y.U.L.Q. Rev.	New York University Law Quarterly Review.
N.Z.L.R.	New Zealand Law Reports.
OGH.	Oberster Gerichtshof (Austria).
Okla.	Oklahoma Reports.
O.L.R.	Ontario Law Reports (Canada).
O.R.	Ontario Reports (Canada).
O.W.N.	Ontario Weekly Notes (Canada).
P.	English Law Reports, Probate Division.
Pa.	Pennsylvania Reports.
Paige	Paige, New York Chancery Reports.
Pand. Pér.	Pandectes périodiques. Recueil de jurisprudence (Belgium).
Paraná Jud.	Paraná Judiciario, doutrina, jurisprudencia e legislação.
Pasicrisie	Pasicrisie Belge. Recueil général de la jurisprudence des cours et tribunaux de Belgique.
Pa.Super.Ct.	Pennsylvania Superior Court Reports.
P.D.	Probate Division, English Law Reports.

P.G.R.	Liechtensteinisches Zivilgesetzbuch, Personen- und Gesellschaftsrecht.
Pos. Mschr.	Juristische Monatsschrift für Posen, West- und Ostpreussen, und Pommern.
Praxis	Die Praxis des Bundesgerichts (Switzerland).
Proceedings Am. Law Inst.	Proceedings, American Law Institute.
Q.B.	Queen's Bench, English Law Reports.
Queb. K.B.	King's Bench Reports (Quebec, Canada).
Que.S.C.	Quebec Official Reports, Superior Court (Canada).
Rb.	Rechtbank (the Netherlands).
Rechtsk. Wkbl.	Rechtskundig Weekblad (Belgium).
Rec. Somm.	Recueil des sommaires de la jurisprudence française.
Recueil	Recueil des cours de l'Académie de droit international de la Haye.
Req.	Chambre des requêtes de la cour de cassation (France).
Rev. de Jur.	Revue de Jurisprudence (Quebec, Canada).
Rev. Der. Juris. Adm.	Revista de Derecho, Jurisprudencia y Administración (Uruguay).
Rev. dos Trib.	Revista dos Tribunaes (Brazil).
Rev. Inst. Belge	Revue de l'Institut de droit comparé.
Revista del Foro	La Revista del Foro; organo del Colegio de Abogados (Peru).
Revista de los Trib.	Revista de los Tribunales (Peru).
Revista Der. Jur. y Ciencias Soc.	Revista de Derecho, Jurisprudencia y Ciencias Sociales (Chile).
Revista Der. Priv.	Revista de Derecho Privado (Spain).
Revista Dir. Civ.	Revista de Direito Civil, Commercial e Criminal (Brazil).
Revista Gen. Legisl. y Jur.	Revista General de Legislación y Jurisprudencia (Spain).
Revista Jur.	Revista Jurídica. Doutrina-Jurisprudencia-Legislação (Brazil).
Revista Sup. Trib.	Revista do Supremo Tribunal (Brazil).
Rev. Jur. Bras.	Revista de Jurisprudencia Brasileira (Brazil).

- Rev. Trim. D. Civ.    Revue trimestrielle de droit civil (France).  
 Revue                    Revue de droit international privé. Fondée  
                               par A. Darras.
- Revue Crit.            Revue critique de droit international.
- Revue Dr. Int.        Revue de droit international et de législation  
 (Bruxelles)            comparée. Fondée par Rolin Jaquemyns,  
                               Asser et Westlake.
- Revue Inst. Belge    Institut Belge de droit comparé, Revue tri-  
                               mestrielle (1924—). Originally: Revue  
                               de l'Institut de droit comparé (1908-1914).  
                               Suspended 1915-1921. 1922-1924: In-  
                               stitut Belge de droit comparé, Bulletin tri-  
                               mestriel (See Bull. Inst. Belge).
- RG.                    Reichsgericht (Germany).
- RGBI.                 Reichsgesetzblatt (Germany).
- RGZ.                    Entscheidungen des Reichsgerichts in Zivil-  
                               sachen (Germany).
- Rhein. Arch.          Rheinisches Archiv für Zivil- und Strafrecht.
- Rheinische Z. f.      Rheinische Zeitschrift für Zivil- und Prozess-  
 Zivil- und Prozes-      recht des In- und Auslandes.  
 srecht—
- Rivista                 Rivista di diritto internazionale.
- Rivista Dir. Int. di    Rivista di diritto internazionale e di legislazione  
 Napoli                    comparata.
- Rivista Dir. Priv.     Rivista di diritto privato.
- Rivista Italiana      Rivista Italiana di diritto internazionale privato  
                               e processuale.
- R.L.                    Revue Légale (Quebec, Canada).
- Rob. Ecc.             Robertson, English Ecclesiastical Reports.
- Rob. (La.)            Robinson's Louisiana Reports.
- ROLG.                 Die Rechtsprechung der Oberlandesgerichte  
                               auf dem Gebiete des Zivilrechts (Germany).
- Rv.                     Wetboek van Burgerlijke Regtsvordering (the  
                               Netherlands).
- RVerwBl.              Reichsverwaltungsblatt (Germany).
- S.                        Sirey, Recueil général des lois et des arrêts  
                               (France).
- Sächs. Arch.          Sächsisches Archiv für Rechtsflege.

S.C.(H.L.)	Court of Session Cases, House of Lords (Scotland).
Schlesw.-Holst. Anz.	Schleswig-Holsteinischer Anzeiger.
Sc. L. T.	Scots Law Times.
S.C.R.	Supreme Court Reports (Canada).
S. Ct.	Supreme Court Reporter (National Reporter System, United States); Supreme Court; Suprema Corte.
Seman. Jud.	Semanario Judicial de la Federación. Sentencias dictadas por la Suprema Corte (Mexico).
Sem. Jud.	La Semaine judiciaire (Switzerland).
Seuff.Arch.	J.A. Seuffert's Archiv für Entscheidungen der obersten Gerichte in den deutschen Staaten.
SJZ.	Schweizerische Juristen Zeitung.
So.	Southern Reporter (National Reporter System, United States).
So. Cal. L. Rev.	Southern California Law Review.
SpR.	Spruchrepertorium des Obersten Gerichtshofes (Austria).
S.R.	Liechtensteinisches Zivilgesetzbuch, Sachenrecht.
StAZ.	Zeitschrift für Standesamtswesen (Germany).
St. R. & O.	Statutory Rules and Orders (Great Britain).
Striethorst	Archiv für Rechtsfälle die zur Entscheidung des königlichen Obertribunals gelangt sind, 1851-1880. Herausgegeben von Striethorst (Prussia).
Sup. Trib. Fed.	Supremo Tribunal Federal (Brazil).
S.W.	Southwestern Reporter (National Reporter System, United States).
Sw. & Tr.	Swabey & Tristram, English Probate and Divorce Reports.
SZ.	Sammlung der Entscheidungen des Österreichischen Obersten Gerichtshofes in Zivil- und Justizverwaltungssachen. Veröffentlicht von seinen Mitgliedern (Austria).
Tenn.	Tennessee Reports.
Tenn. (Baxt.)	Baxter's Tennessee Reports.

Terr. L.R.	North-West Territories Law Reports (Canada).
Tex.	Texas Reports.
Tex. L. Rev.	Texas Law Review.
T.L.R.	Times Law Reports (England).
Trib. Comm. Bruxelles	Tribunal de commerce de Bruxelles.
Trib. Supr.	Tribunal Supremo.
Tul. L. Rev.	Tulane Law Review.
U. f. R.	Ugeskrift for Retsvaesen (Denmark).
U.L.A.	Uniform Laws, Annotated (United States).
U. of Chi. L. Rev.	University of Chicago Law Review.
U. of Detroit L.J.	University of Detroit Law Journal.
U. of Pa. L. Rev.	University of Pennsylvania Law Review and American Law Register.
U.S.	United States Reports.
U.S.C.	Code of the Laws of the United States of America.
U.S. Dist. Ct. Haw.	United States District Court for Hawaii.
Va. (Grat.)	Grattan's Reports, Special Court of Appeals of Virginia.
Va. L. Rev.	Virginia Law Review.
V. L. R.	Victorian Law Reports (Australia).
Vt.	Vermont Reports.
W.	Weekblad van het Recht (the Netherlands).
Warn.Rspr.	Die Rechtsprechung des Reichsgerichts auf dem Gebiete des Zivilrechts, herausgegeben von O. Warneyer (Germany).
Wash. L. Rev.	Washington Law Review.
Wis.	Wisconsin Reports.
W.L.R.	Western Law Reporter (Canada).
W. Va. L. Q.	West Virginia Law Quarterly.
W.W.R.	Western Weekly Reports (Canada).
Yale L. J.	Yale Law Journal.
Z.ausl.PR.	Zeitschrift für ausländisches und internationales Privatrecht. Begründet von Ernst Rabel.
ZBJV.	Zeitschrift des Bernischen Juristenvereins (Switzerland).
Zentralblatt	Zentralblatt für die Juristische Praxis. Con- tinuation of Geller's Zentralblatt (Austria).

Z.f.Ostrecht	Zeitschrift für Ostrecht. (See also Z.osteurop. R.).
Z.int.R.	Niemeyer's Zeitschrift für internationales Recht.
Z.osteurop.R.	Zeitschrift für osteuropäisches Recht. (In 1927 merged with Ostrecht into Zeitschrift für Ostrecht. Continued since 1934 as Zeitschrift für osteuropäisches Recht. See also Z.f.Ostrecht).
Z. Rechtspflege Bayern	Zeitschrift für Rechtspflege in Bayern.
Z. Schweiz. R.	Zeitschrift für schweizerisches Recht.
Z. Ziv. Proz.	Zeitschrift für deutschen Zivilprozess.