

Contents

<i>Table of Cases</i>	xix
<i>Table of Legislation and International Conventions</i>	xxxv
<i>Contributors</i>	xliii
<i>Professor Adrian Briggs</i>	xlvi
<i>Biographical note</i>	xlvi
<i>Adrian Briggs and the North of England—A Brief Note</i>	xlvi
<i>Horton Rogers</i>	
<i>Adrian Briggs and the Conflict of Laws in Oxford</i>	xlvi
<i>Francis Reynolds</i>	
<i>Adrian Briggs' Contribution to the Life of St Edmund Hall</i>	liv
<i>Derrick Wyatt</i>	
<i>Recollections</i>	lvii

PART I JURISDICTION

1. The Natural Forum Revisited	3
<i>Andrew Bell</i>	
A. Introduction	3
B. <i>Spiliada</i> —a Noble Aim, Rare Praise and a Wide Embrace	5
C. The Natural Forum and 'Unattainable Perfection'—Noble but Naïve?	9
D. The Natural Forum—Australian Iconoclasm	18
E. O Canada, Oh Canada!	21
F. The Natural Forum, Comity and Hard Cases	24
G. The Natural Forum—Final Reflections	30
2. <i>Forum Non Conveniens</i> : Now We Are Much More Than Ten	31
<i>Martin Davies</i>	
A. Introduction	31
B. Some Mysteries of Interpretation Found While Digging in the Foundations	33
C. The Convenience of the Parties	38
D. Public Interest Factors	41
E. The Nature of the Decision	47
F. Conclusion	50

3. The Distant Shore: Discretion and the Extent of Judicial Jurisdiction	53
<i>Janet Walker</i>	
A. Introduction	53
B. Dipping Our Toes in the Water	54
C. Jurisdiction and Service	56
D. Up to Our Elbows: Eschewing Discretion Has Not Achieved Certainty	58
E. In Over Our Heads? Certainty and Denial of Justice	60
F. Feeling the Stones	64
G. Strange New Shores	69
H. Settling In	73
4. Taming Anti-suit Injunctions	77
<i>Andrew Dickinson</i>	
A. Introduction	77
B. Terminology	79
C. Legal Basis	81
D. In Search of Principle	88
E. A Way Forward?	109
5. Jurisdiction over Co-defendants	111
<i>Andrew Scott</i>	
A. Introduction	111
B. The Domestic Rule	112
C. Art 8(1) of the Recast Brussels I Regulation	125

PART II CHOICE OF LAW

6. Putting the Principle of Severability in the Dock: An Analysis in the Context of Choice of Law for Arbitration and Jurisdiction Agreements	139
<i>Koji Takahashi</i>	
A. Introduction	139
B. Purpose and Structure of This Essay	140
C. Substantive Law Sphere	141
D. Extension to the Sphere of Choice of Law Analysis?	143
E. Possibility of <i>Dépeçage</i>	153
F. Preferred Choice of Law Approach	156
G. Illustrations of the Contrasting Approaches	156
H. Analysis of English Cases on Arbitration Agreements	162
I. Compatibility with Existing Instruments	165
J. Concluding Remarks	170
K. Postscript	170

7. The Conflict of Laws and Unjust Enrichment	175
<i>Andrew Burrows</i>	
A. Introduction	175
B. Jurisdiction	178
C. Applicable Law	191
D. Concluding Remarks	198
8. Choice of Law in the Shifting Sands of Securities Trading	199
<i>Maisie Ooi</i>	
A. Introduction	199
B. Existing Choice of Law Relating to Securities	200
C. Appraising the Elephant	203
D. The Evolution of Securities and Trading Platforms	204
E. Taxonomy of a DLT System	207
F. Issues of Entitlement—the Technological Solution	208
G. Issues of Entitlement—the Conflict of Laws Solution	209
H. Issues of Title—Canvassed Solutions for Cryptosecurities	211
I. Conclusion	223
9. Remedies and the Conflict of Laws	225
<i>Adam Rushworth</i>	
A. Overview	225
B. What is a ‘Remedy’?	226
C. Theory	227
D. Rights Arising by Virtue of Being Involved in Legal Proceedings	230
E. Inconvenience: The Rule of Exclusion	243
F. Conclusion	246

PART III RECOGNITION AND ENFORCEMENT OF FOREIGN JUDGMENTS

10. Foreign Judgments and Contracts: The Anti-enforcement Injunction	251
<i>Tiong Min Yeo</i>	
A. Introduction: From Anti-suit to Anti-enforcement Injunctions	251
B. The Law on Anti-enforcement Injunctions	253
C. Interference with Foreign Legal Systems	256
D. The Importance of Primary Obligations	258
E. <i>Ellerman Lines</i> : Breach of Contract and Fraud	261
F. Three Modern Cases Involving Breach of Contract	263
G. Agreements to Discharge Judgment Debts	268
H. Conclusion	269

11. 'A Peculiarly Pointless Line of Division': Recognition of Proceedings and Non-proceedings Divorces under the Family Law Act 1986	273
<i>Máire Ní Shúilleabháin</i>	
A. Introduction	273
B. An Historical Exegesis: The Origins of the Distinction between Proceedings and Non-proceedings Divorces	274
C. Two Distinct Schemes of Recognition under Section 46(1) and 46(2) of the 1986 Act	276
D. Rationality of the Disparate Treatment of Proceedings and Non-proceedings Divorces: A 'Peculiarly Pointless' Line of Division?	278
E. Practical Difficulty in Distinguishing Proceedings and Non-proceedings Divorces	283
F. Replication in the Civil Partnership Act 2004	290
G. Another Pointless Line of Division? Transnational Divorces	292
H. Conclusion	295

PART IV CONFLICT OF LAWS WITHIN THE LEGAL SYSTEM

12. How Private is English Private International Law?	299
<i>Edwin Peel</i>	
A. Introduction	299
B. Jurisdiction and Jurisdiction Agreements	301
C. Choice of Law and Choice of Law Agreements	319
D. Brexit	322
E. Conclusion	324
13. Comity in Private International Law and Fundamental Principles of Justice	325
<i>James Edelman and Madeleine Salinger</i>	
A. Introduction	325
B. The Meaning and Role of Comity	327
C. Fundamental Principles of Justice as a Limit on Comity	337
D. New Fundamental Principles of Justice and the Example of Privacy	348
E. Conclusion	355

<i>Appendix: List of Publications</i>	357
<i>Index</i>	363