

## CONTENTS

Preface . . . . .	V
Chapter I. Introduction . . . . .	1
I. The nature of this Course.	
II. Choice of law methods. A preview.	
III. The great dilemma: internal consistency versus international harmony.	
IV. Divisible and indivisible issues.	
Part I. SOURCES.	
Chapter II. International law as a source . . . . .	19
I. Customary international law as a source of affirmative conflict rules?	
(a) A source of authority?	
(b) A source of reasoning?	
(c) A source of conflict rules in international courts?	
II. Customary international law as a source of restrictive conflict rules.	
(a) Restriction on choice of law.	
(b) Restriction on judicial jurisdiction.	
(i) Enforcement of competition.	
(ii) "Jurisdictionally improper fora".	
(c) Restriction on administrative action.	
III. Conventional international law as a source of conflict rules.	
Chapter III. Central and peripheral sources in composite units . . . . .	60
I. Unitary States.	
II. Federal States.	
(a) Federal conflict rules.	
(b) Federal restrictions and prescriptions.	
Chapter IV. Legislation as a source . . . . .	80
I. Codifications and special statutes.	
II. Constitutional conflicts rules?	
III. Multilateral and unilateral norms.	
IV. Choice of law rules and self-limiting statutes.	
V. Implied self-limitations—a fundamental problem.	
Chapter V. Case law as a source . . . . .	108
I. The role of the courts in general.	
(a) In matters of jurisdiction and recognition of judgments.	
(b) In matters of choice of law.	



II. The technique of judicial control—the problem of the “false” conflict.	
(a) The significance of conflict avoidance.	
(b) Conflict avoidance by the judge?	
(i) In common law countries?	
(ii) In France?	
(iii) In Germany?	
(iv) In Italy?	
(v) A word on “local law theories”.	
Chapter VI. Academic doctrine as a source . . . . .	128
I. Academic doctrine and codification.	
(a) Official codification.	
(b) Private codification.	
(i) At international level.	
(ii) At national level.	
II. Academic doctrine and the migration of ideas.	
Part II. CONTEXTS.	
Chapter VII. International and internal conflicts . . . . .	146
I. Choice of law problems.	
(a) Interstate, interlocal, interpersonal conflicts.	
(b) The identity of international and internal conflicts principles: the rule and some exceptions.	
(c) What is “foreign” law?	
(d) What is the law of the nationality in a composite unit?	
II. Jurisdiction of courts and recognition of judgments.	
Chapter VIII. Spheres of life and spheres of law . . . . .	184
I. Spheres of life.	
II. Spheres of law.	
(a) The prophylactic function of private international law.	
(i) <i>Autonomie de la volonté</i> .	
(ii) <i>Prorogatio fori</i> and arbitration.	
(b) Private international law in declaratory and in formative procedures.	
Part III. METHODS.	
Chapter IX. The classification of the issue . . . . .	223
I. The dilemma: <i>lex fori</i> or <i>lex causae</i> ?	
II. Conflicts concepts and domestic concepts. The “enlightened” <i>lex fori</i> rule.	
III. Overlaps and gaps.	
IV. Two exceptions to the rule.	



Chapter X. The choice of the connecting factor . . . . . 242

- I. Definition of the connecting factor by the *lex fori*.
- II. Exceptions to this principle.
- III. Conflicting definitions.
- IV. Constant and variable connecting factors.
- V. Transformation of connecting factors.
  - (a) Functional diversification.
  - (b) The softening of concepts.
  - (c) The abolition of connecting concepts.

Chapter XI. The application of the chosen law . . . . . 276

- I. The subsidiary application of the *lex fori*.
- II. The deliberate application of the *lex fori: ordre public*; evasion.
- III. The application of the conflicts rules of the chosen law.
  - (a) Renvoi.
  - (b) Incidental question.
- IV. Problems of the application of foreign law.
  - (a) Changes in the foreign law.
  - (b) The use of judicial precedents.
  - (c) Unconstitutional foreign laws.

Chapter XII. Epilogue . . . . . 318

Table of Cases . . . . . 329

Index . . . . . 331