

A GREETING TO DAVID F. CAVERS

This publication honors David F. Cavers. In form it celebrates his seventy-fifth birthday on September 3, 1977. In fact it expresses the gratitude of the editors and the contributors for all he has done—to elaborate on one of his favorite metaphors—to bring in new topsoil and to irrigate the garden so that all of us who follow can cultivate our own small plots and hope to contribute to the landscape.

To the student of conflict of laws there is no need to identify David F. Cavers. He has always viewed the field broadly. Thus, it is most fitting that the issue of *Law and Contemporary Problems* dedicated to him bear the title “Contemporary Perspectives in Conflict of Laws.”

In his early thirties, Cavers brought new life to discussions that were becoming more and more arid by focusing on basic defects in traditional approaches to solutions of the choice-of-law problem. Since his 1933 article in the *Harvard Law Review*, with typical modesty and grace entitled “A Critique of the Choice-of-Law Problem,” doctrinal argument has not been the same. The recent “revolution” in conflicts thinking, leading to a world-wide reassessment of conflicts methodology, begins with his insights and continues forty-five years later to see his critique as pivotal.

To the 1933 “Critique,” David Cavers has now added his “Principles of Preference,” offered as a positive approach to the resolution of some of the most difficult problems faced in choice of law. First presented in the Cooley Lectures of 1965 and reproduced in a volume entitled *The Choice-of-Law Process* published the same year, they are the subject of general discussion at home as well as abroad. They were presented to a European audience at the Hague Academy of International Law in 1970. The “Critique” and “Principles” have since had an authentic interpretation in the “Addendum 1972” he wrote for the reprinting of the “Critique” in the anthology *Internationales Privatrecht*. The “Addendum” appears separately in the 1976 volume of the *Harvard International Law Journal*.

These personal contributions to the solution of ever-puzzling problems have been coupled with selfless assistance given to others, young and old, who have sought the benefit of his wisdom. The generosity that has always characterized his response to and interest in the ideas of others helps explain the unusual degree of gratitude and esteem that surrounds him.

Conflict of laws is but one of several areas to which David Cavers has given special attention. A study of "David Cavers and the Law" would recount the contributions made over the entire range of his work. In the present, less ambitious tribute, the thumb-nail recording of the other activities in the Biography will have to suffice. In addition, a Bibliography of his writings compiled for the volume containing his Hague Academy Lectures of 1970, and now up-dated, is reproduced in Appendix I.

Cavers has had a truly extraordinary career, one full of original contributions to all the fields he has touched: Legal Education, especially during the important post-war years when he was Associate Dean and Chairman of the Division of Graduate Studies of the Harvard Law School; Public Administration, as counsel to government agencies and to a Congressional committee; and Organized Research, as a trustee of the Center for Law and Social Policy, as president of the Walter E. Meyer Research Institute of Law, and as president of the Council on Law-Related Studies. In all of these activities, David Cavers has distinguished himself for his fresh, pioneering look at all things "traditional."

A particularly happy innovation inspired by David Cavers is in the field of legal publication. In 1932, while a member of the Faculty of Law of Duke University, he suggested publication of a new style of law review presenting symposia on selected important topics. With permission, the principal part of his "Faculty Memorandum" of 1932 that led to the creation of *Law and Contemporary Problems* is reproduced in Appendix II. The success story of this journal, edited by him during the first ten years of its existence, need not be retold. It is thus particularly fitting to publish here a symposium in the Conflicts field on the occasion of his seventy-fifth birthday.

Of the nine contributions, the majority are on the "doctrinal" side but doctrinal in very different ways. Broadest in approach, probably, is that of Arthur von Mehren, discussing the problem of "justice" as it arises with respect to choice of law. Rodolfo De Nova, with his insight into American and Continental thinking, compares the jurisdiction-selecting approach with the techniques available in more traditional approaches to secure flexibility. Russell Weintraub reflects on the principles which should be preferred in the field of torts. Willis Reese tests doctrines for use in the matter of testimonial privileges. Donald Trautman looks at the choice-of-law problem from the point of view of the federal common law. Robert Lefflar surveys recent conflicts decisions for the doctrines the courts have said they are following. From John Morris, there is an authoritative account of a change of view in the House of Lords on the subject of giving judgment in a currency other than that of the forum. Frank Vischer gives the reader a preview of the codification of rules of private international law under preparation in Switzerland.

Kurt Nadelmann discusses politico-legal difficulties which have developed in international work on unification of rules of conflict of laws.

The Editors express their gratitude to the contributors for making possible this well-deserved tribute to a distinguished jurist.

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