
John D. Falconbridge
The point at which Mr. Umbreit departs from the usual estimate of the Chief Justices is in his effort to make a great judge out of Morrison R. Waite, who, I think, usually is regarded as an undistinguished mediocrity. The attempt does not quite succeed—the author rests it almost entirely upon the decision in *Munn v. Illinois*, in which the power of the legislature to fix the rates to be charged at grain elevators was upheld. A good decision, of course, but surely not the outstanding and epochal matter that Mr. Umbreit makes of it. Nor, with deference to the learned author, is it so entirely surprising that such a decision should come from a judge who had spent the greater part of his life in the service of railroads and public utility companies. The theory that a man who takes a client sells out his soul and his independence of thought forever finds abundant refutation in the history of the entire Court, and Waite is only one instance of a recurring phenomenon. Furthermore, even if personal prejudices are warped forever by the unholy association, it is not an unknown thing for a good lawyer to conclude that the law must tolerate what he himself abhors—vide Mr. Justice Holmes. It does not seem likely that Morrison R. Waite will be remembered when the other ten are forgotten.

By and large, the book is worth reading. The conclusion to which one comes is that, except in two or three instances, the choice of our Chief Justice has been a happy one, even if sometimes rather blind. As a group, the eleven compare favorably in character, in honesty of purpose, in foresight and independence, in legal ability and power, with any equivalent consecutive list of judges that one could find in England, or perhaps in the civilized world. Their influence upon our nation has been enormous and incalculable, and it is a useful thing to have them summarized in one place.

William L. Prosser*


The first edition of Goodrich, published in 1927, appeared at a peculiarly opportune time, when, during a considerable period, there had appeared in England merely some new editions of old books on the conflict of laws, and in the United States there had
not appeared even new editions of old books. Within the limits of a handbook, not claiming to be an exhaustive treatise, the author said in the preface to his first edition that he had attempted to produce a "modern usable book." In this attempt the author was distinctly successful, and the present reviewer found the book particularly valuable because it afforded to readers outside of the United States a trustworthy guide to a system of the conflict of laws which differs in some respects from that prevailing in British countries generally, including the provinces of Canada. The book in its new edition will undoubtedly continue to be indispensable to a wide circle of readers, notwithstanding that there has been in recent years a notable increase in the number of available books.

In the interval between the author's first and second editions, various new books in English had been published on the subject of conflict of laws, including Stumberg's "principles,"¹ about three-fifths the size of Goodrich's "handbook," and Beale's "treatise,"² about four times as large, and the Restatement³ and Cheshire⁴ which, according to a similar yardstick measurement might be classified as something between handbook and treatise. Johnson's⁵ three volumes would rank as a "treatise," and incidentally, they make easily available some Canadian material which has been rather neglected both in the United States and England. Perhaps even more remarkable than the appearance of new textbooks has been the publication of a great number of articles on specific topics (most of which are duly noted in Goodrich's new edition in their appropriate places), and many articles on the theoretical basis of the conflict of laws (of which the new edition does not perhaps take sufficient notice). It would not seem to be unfair to say that the author has remained substantially impervious to the impact of published critical discussion of the theories underlying conflict rules. The Restatement contains a good deal of theory, and Stumberg has shown that even in a relatively small book place may usefully be found for some account of various theories. Goodrich has of course something to say about the doctrine of the renvoi, but he dismisses the matter somewhat too summarily. The word "characterization" (or either of the alternatives in common use, "qualification" and

“classification”) does not appear in the index, and the problem does not seem to be specifically discussed in the text, although the author's leading example of the renvoi involves a matter of characterization. The theory of acquired rights is not so positively stated in the second edition as it was in the first, but traces of the theory remain in the second edition. There is no discussion of the interrelation of the problems of renvoi, characterization and acquired rights, and there is no mention of the conflict between the Restatement's theory of acquired rights and its general rejection of the renvoi.

The author, generally speaking, manifests a predominant interest in practical solutions of specific problems and is inclined perhaps to underrate the importance of general theory. The book is, however, far from being a mere statement of what courts have decided, and the author often compares various possible solutions and makes many judicious observations in expressing his preference for this or that solution. The propositions stated in black letter text are sometimes not much more than sign posts, and the value of these propositions is of course exceeded by that of the author's explanation and comment. The author begins chapter 12 by pointing out the distinction between movables and immovables, as contrasted with the distinction between realty and personality, whereas in chapter 13, less accurately, he discusses succession to land and personalty respectively, instead of immovables and movables respectively, and this want of exactness of expression leads inevitably to some ambiguity in the discussion of the subject of succession. The case of *Vita Food Products v. Unus Shipping Co.*, was of course decided too late to be discussed in the book. One would have been glad to learn the author's reaction to this decision, so far as it concerns the selection of the proper law of a contract, and to Lord Wright's somewhat undiscriminating approval of the intention doctrine, which, as the author remarks, "bristles with difficulties, theoretical and practical."

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