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Charles D. Clausen

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RECENT DECISIONS

Conflict of Laws: Post-accident Change of Domicile by Wrongful Death Defendant. On August 10, 1961, Earl Miller, a resident of Harrison, New York, embarked on a short business trip to Brunswick, Maine, where his brother Robert resided and where they had mutual business interests. On August 12, while a passenger in a car driven by Robert and owned by Robert's wife, who was also a Maine domiciliary, Earl Miller was killed when the vehicle crashed into a bridge railing. The automobile had been insured and registered in Maine up to the date of the accident.

In November, 1961, Robert and his wife established residence in New York, where they had lived before moving to Maine. In June, 1962, the decedent's wife, also a resident of New York, brought a wrongful death action in New York against Robert and his wife. As a partial defense, the defendants asserted the $20,000 limitation on recoveries for wrongful death in effect in Maine at the time of decedent's death.[1] The trial court granted a motion by the plaintiff to dismiss the partial defense and the appellate division unanimously affirmed.[2] In *Miller v. Miller*,[3] the court of appeals, in a 4-3 decision, affirmed the appellate division, but on a basis different from that used by the lower courts.

The appellate division had relied on the authority of *Kilberg v. Northeast Airlines, Inc.*,[4] a 1961 New York wrongful death action arising out of the crash in Massachusetts of an airplane en route from New York to Massachusetts. The decedent and his beneficiaries were New York residents and defendant was a common carrier operating and soliciting business in New York, but chartered and headquartered in Massachusetts. The court of appeals ruled in *Kilberg* that although plaintiff's substantive rights would be determined by the law of the place of death, i.e., Massachusetts; nevertheless, the Massachusetts statutory restriction on damages recoverable was a matter of procedure rather than substantive right[5] and would not be enforced by a New

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[1] Law of Aug. 28, 1957, ch. 188, [1957] Me. Laws 125, *as amended*, ME. REV. STAT. ANN. tit. 18, § 2552 (1964). The amended provision limiting recovery to $30,000 was repealed prior to the litigation arising out of the Miller accident. Law of Sept. 16, 1961, ch. 255, [1961] Me. Laws 301.

[2] Miller v. Miller, 28 App. Div. 2d 899, 282 N.Y.S.2d 35 (2d Dep't. 1967).

[3] 22 N.Y.2d 12, 237 N.E.2d 877, 290 N.Y.S.2d 734 (1968).

[4] 9 N.Y.2d 34, 172 N.E.2d 526, 211 N.Y.S.2d 133 (1961). The airline crash which was the subject of the *Kilberg* case also gave rise to the *Pearson* case, which held that New York's refusal to apply the Massachusetts wrongful death recovery limitation was not a violation of the Full Faith and Credit Clause of the U.S. Constitution. Pearson v. Northeast Airlines, Inc., 199 F. Supp. 539 (S.D.N.Y. 1961), *rev'd on other grounds*, 307 F.2d 131 (2d Cir. 1962), *aff'd en banc*, 309 F.2d 553 (2d Cir. 1962). *See generally*, Currie, *The Constitution and the Choice of Law*, 26 U. CHI. L. REV. 9 (1958).

[5] 9 N.Y.2d at 41, 172 N.E.2d at 529, 211 N.Y.S.2d at 137.

York court because of New York's long-standing constitutional policy against limiting recovery in wrongful death proceedings.[6]

In *Miller,* the court of appeals affirmed the appellate division not on the authority of *Kilberg,* but rather on the authority of *Babcock v. Jackson.*[7] The court in *Babcock* had ruled that Ontario's guest statute did not bar an action between New York residents for personal injuries arising out of an auto accident in Ontario. In so ruling, the court abandoned the traditional conflict of laws rule that lex loci delicti, or the law of the place of the wrong, invariably governs the rights and liabilities of parties to a tort action.[8] The court adopted the "center of gravity" or "grouping of contacts" test. Using this test, the court compares and weighs the various "contacts" of the states involved in the tortious transaction and gives controlling effect to the law of the state whose contacts with the parties or with the transaction are most significant. In *Farber v. Smolack,*[9] the court extended the *Babcock* rule from personal injury actions to wrongful death actions and declared that

> [W]hen a fatal accident occurs out of State and New York . . . is the jurisdiction having "the most significant relationship" with the issue presented, . . . the New York wrongful death statute determines the rights of the victim's survivors.[10]

Modern conflict of laws doctrines have undergone significant changes from the early doctrine which was based on a theory of comity. Under the comity doctrine, courts held that when a foreign law should govern, that law was "allowed to operate" in the forum for the purposes of the particular case.[11] The theory smacked too heavily of extraterritoriality for many jurists and around the turn of the 19th century, the theory was supplanted by the "vested rights" theory. Proponents of this theory postulated that at the moment a tort occurs a right to damages accrues

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[6] "The right of action now existing to recover damages for injuries resulting in death shall never be abrogated; and the amount recoverable shall not be subject to any statutory limitation." N.Y. Const. art. I, § 18, renumbered § 16 by the Constitutional Convention of 1938.

[7] 12 N.Y.2d 473, 191 N.E.2d 279, 240 N.Y.S.2d 743 (1963). *See, Comments on Babcock v. Jackson, A Recent Development in the Conflict of Laws,* 63 COLUM. L. REV. 1212 (1963).

[8] RESTATEMENT OF CONFLICT OF LAWS, §§ 377-97 (1934).

[9] 20 N.Y.2d 198, 229 N.E.2d 36, 282 N.Y.S.2d 248 (1967). The Farber decision had as its precursor Long v. Pan American World Airways, Inc., 16 N.Y.2d 337, 213 N.E.2d 796, 266 N.Y.S.2d 513 (1965), a wrongful death action in which the New York Court of Appeals, as a disinterested forum, was called upon in a wrongful death action to choose between the law of Pennsylvania and the law of Maryland. In deciding that Pennsylvania law applied, the court ruled that wrongful death statutes could be given extraterritorial effect. *Accord,* Griffith v. United Air Lines, Inc., 416 Pa. 1, 203 A.2d 796 (1964).

[10] 20 N.Y.2d at 204, 229 N.E.2d at 40, 282 N.Y.S.2d at 253.

[11] *See* A. EHRENZWEIG, CONFLICT OF LAWS, pt. 1, at 4-6 (1959); J. STORY, CONFLICT OF LAWS (8th ed. 1883); Lorenzen, *Story's Commentaries on the Conflict of Laws—One Hundred Years After,* 48 HARV. L. REV. 15 (1934).

in the victim with a corresponding liability in the tortfeasor.[12] Because of the strict concepts of the territoriality of law, the right would accrue only if the place of the wrong provided it and only to the extent that the place of the wrong provided it. This is the position of the Restatement of Conflict of Laws[13] and is the majority rule today.[14]

The vested rights theory provides predictability, facilitates pre-trial settlement, and simplifies litigation on the issue of which law governs a case with multi-state aspects. The theory was regarded almost universally as a good legal tool until the post-World War II era. Since the end of the war, the significant advances in motor vehicle and aircraft technology, and the general increase in individual wealth have resulted in increased traveling, more accidents, and a growing dissatisfaction with the limitations of the vested rights theory.[15] Opponents of the theory have argued that although the rule was appropriate in the bygone era of slow transportation and relatively infrequent interjurisdictional travel, its rigid application in the era of interstate higways and congested airways has worked unnecessary hardships. In airplane cases especially, the place of death is often truly fortuitous and, in some

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[12] *See* 2 J. BEALE, A TREATISE ON THE CONFLICT OF LAWS § 378.2 (1935); A. EHRENZWEIG, CONFLICT OF LAWS, pt. 1, at 6-13 (1959); *see also*, Mr. Justice Holmes in Slater v. Mexican National R.R., 194 U.S. 120, 126 (1904):

> The theory of the foreign suit is that although the act complained of was subject to no law having force in the forum, it gave rise to an obligation, an *obligatio*, which, like other obligations, follows the person, and may be enforced wherever the person may be found.

[13] RESTATEMENT OF CONFLICT OF LAWS, *supra*, note 8. *See also* H. GOODRICH, CONFLICT OF LAWS 260, 302 (3d ed. 1949); R. LEFLAR, THE LAW OF THE CONFLICT OF LAWS, §§ 110, 114 (1959); G. STUMBERG, PRINCIPLES OF CONFLICT OF LAWS, 183-86 (3d ed. 1963).

[14] For recent cases adhering to the doctrine, see Friday v. Smoot, 211 A.2d 594 (Del. 1965); Fessenden v. Smith, 255 Iowa 1170, 124 N.W.2d 554 (1963); McDaniel v. Sinn, 194 Kan. 625, 400 P.2d 1018 (1965); Nicholson v. Atlas Assurance Corp., 156 So. 2d 245 (La. App. 1963); Lyons v. Lyons, 2 Ohio St. 2d 243, 208 N.E.2d 533 (1965); Cherokee Laboratories, Inc. v. Rogers, 398 P.2d 520 (Okla. 1965); Shaw v. Lee, 258 N.C. 609, 129 S.E.2d 288 (1963); Oshiek v. Oshiek, 244 S.C. 249, 136 S.E.2d 303 (1964); Glick v. Ballentine Produce, Inc., 343 F.2d 839 (8th Cir. 1965); Goranson v. Capital Airlines, Inc., 345 F.2d 750 (6th Cir. 1965).

[15] *See* D. CAVERS, THE CHOICE OF LAW PROCESS (1965); B. CURRIE, SELECTED ESSAYS OF THE CONFLICT OF LAWS (1963); A. EHRENZWEIG, A TREATISE ON THE CONFLICT OF LAWS §§ 219-23 (1962); H. GOODRICH and E. SCOLES, CONFLICT OF LAWS 165-66 (4th ed. 1964); A. VON MEHREN and D. TRAUTMAN, THE LAW OF MULTI-STATE PROBLEMS (1965); Cook, *The Logical and Legal Bases of the Conflict of Laws*, 33 YALE L. J. 457 (1924); Currie, *Notes on Methods and Objectives in the Conflict of Laws*, 1959 DUKE L. J. 171; Currie, *Conflict, Crisis, and Confusion in New York*, 1963 DUKE L. J. 1; Currie, *Survival of Actions: Adjudication versus Automation in the Conflict of Laws*, 10 STAN. L. REV. 205 (1958); Currie, *Justice Traynor and the Conflict of Laws*, 13 STAN. L. REV. 719 (1961); Ehrenzweig, *The "Most Significant Relationship" in the Conflicts Law of Torts*, 28 LAW & CONTEMP. PROB. 700 (1963); Ehrenzweig, *Guest Statutes in the Conflict of Laws*, 69 YALE L. J. 595 (1960); Morris, *The Proper Law of a Tort*, 64 HARV. L. REV. 881 (1951); Weintraub, *A Method for Solving Conflict Problems—Torts*, 48 CORNELL L. Q. 215 (1963); *Comments on Babcock v. Jackson, A Recent Development in the Conflict of Laws, supra*, note 7. Comment, 51 CALIF. L. REV. 762 (1963); Note, 78 HARV. L. REV. 1452 (1965); Note, 49 MARQ. L. REV. 633 (1966).

cases, even impossible to determine.[16] The position of the vested rights theory as a postulate of American law has started to give way to the "center of gravity" or "grouping of contacts" doctrine, adopted in the landmark *Babcock* case. The center of gravity doctrine first was used to resolve conflict problems in multi-state contract and trust cases,[17] but later the doctrine was extended to tort cases. It is the theory favored in the proposed Restatement (Second) of Conflict of Laws.[18]

An analogue of the "grouping of contacts" doctrine is the theory of "governmental interest analysis." By ascertaining the purposes underlying the laws which appear to conflict, the courts are able to resolve many instances of "false conflicts."[19] For example, assume that two Wisconsin residents, *A* and *B*, drive to state *X*. While in *X*, the Wisconsinites are involved in a one-car accident and only *A*, the guest in *B's* automobile, is injured. *A* sues *B* in a Wisconsin court for damages arising from his personal injuries. State *X* has a guest statute immunizing an automobile driver from liability to his guest who was injured as a result of the host's simple negligence. The purposes of state *X*'s statute, as enunciated by *X*'s legislature and supreme court, are: (1) to assure that injured third parties are compensated before injured guests; (2) to safeguard a fund for resident creditors in state *X* who incur expenses arising out of the accident and; (3) to prevent collusive suits between guests and hosts in order to protect insurers in state *X*. Since, in our one auto accident, (a) only a Wisconsin resident is injured, (b) no insurer in state *X* is involved, and (c) no residents of state *X* incurred expenses arising out of the accident, then no governmental policy of state *X* would be furthered by the application of *X*'s guest statute in the Wisconsin lawsuit. Consequently, there should be no impediment to the Wisconsin court's implementation of this state's policy of compensating injured guests for injuries negligently caused by a host driver.[20] With the decision in *Miller v. Miller*, it seems clear

[16] Long v. Pan American World Airways, 16 N.Y.2d 337, 213 N.E.2d 796, 266 N.Y.S.2d 513 (1965). The case arose from the crash of an aircraft near the Pennsylvania-Maryland border. In which state the passengers actually died was impossible to determine.

[17] *See* Auten v. Auten, 308 N.Y. 155, 124 N.E.2d 99, 50 A.L.R.2d 246 (1954); Haag v. Barnes, 9 N.Y.2d 554, 175 N.E.2d 441, 216 N.Y.S.2d 65 (1961).

[18] RESTATEMENT (SECOND) OF CONFLICT OF LAWS §§ 145, 146 (Proposed Official Draft, Part II, 1968). *See also* H. GOODRICH and E. SCOLES, CONFLICT OF LAWS, §§ 92, 93 (4th ed. 1964).

[19] *See generally* Cavers, *A Critique of the Choice of Law Problem*, 47 HARV. L. REV. 173 (1933); Traynor, *Is This Conflict Really Necessary?*, 37 TEXAS L. REV. 657 (1959); Comment, 65 COLUM. L. REV. 1448 (1965); Note, 49 MARQ. L. REV. 633 (1966).

[20] An interesting case which is in many respects similar to the hypothetical is Dym v. Gordon, 16 N.Y.2d 120, 209 N.E.2d 792, 262 N.Y.S.2d 463 (1965), a post-Babcock personal injury action which arose out of an automobile accident in Colorado and which involved two New York residents as the sole litigants. Both parties to the action had proceeded independently to Colorado to attend summer school and, while there, they became acquainted. During a short excursion, the plaintiff, while a guest in the defendant's auto, was injured in

that New York has adopted "governmental interest analysis" as its choice of law test.

Writing for the majority, Judge Keating noted that New York had earlier abandoned the traditional vested rights theory.

> The difficulty which we found with this rule was that in giving controlling significance to the law of that jurisdiction in which the accident took place, *without considering the purpose of the laws in conflict,* the rule "ignored the interest which jurisdictions other than where the tort occurred may have in the resolution of that particular issue. . . .[21]
> [T]he law of the jurisdiction having the greatest interest in the litigation will be applied and . . . the facts or contacts which obtain significance in defining State interests are those which relate to the purpose of the particular law in conflict.[22]

The issue before the court in *Miller* was the manner in which the wife and children of a New York decedent were to be compensated for the economic loss they suffered as a result of the death of their "breadwinner." New York's public policy, embodied in the state constitution, is that wrongful death actions shall not be subject to limitations of damages; that is, that victims of wrongful killings should be fully compensated. At the time of Mr. Miller's accident, Maine's public policy, manifested in its wrongful death statute, was that wrongful death recoveries should be limited to not more than $20,000.

Since the plaintiff was an injured New York resident, the New York court had a substantial interest in applying New York's law of full compensation.[23] Moreover, the majority reasoned that there were no significant countervailing considerations which would warrant rejection of New York's law in favor of that of Maine. Since the issue presented involved only the nature of the remedy and not a standard of conduct, the court saw no possibility of unfairness to a party who had patterned his conduct in reliance on Maine law. Since the defendants were no longer residents of Maine at the time of litigation, the majority reasoned that Maine's interest in providing remedies for its residents did not preclude application of New York law. The majority perceived

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a collision with an automobile driven by a Kansas resident. In the ensuing personal injury action, the Kansas resident was not a party. The New York defendant raised as a defense the Colorado guest statute. In upholding the defense, the court of appeals ruled that Colorado had the most significant contacts with the issue of host-guest immunity. In a vigorous dissent, Judge Jasen urged that the case presented only a "false conflict" since Colorado could be in no way concerned about remedies available in foreign law suits having no effect in Colorado or on Colorado residents. Although never expressly overruled, it is doubtful that Dym represents the current law in New York.

[21] 22 N.Y.2d at 15, 237 N.E.2d at 878, 290 N.Y.S.2d at 736 (emphasis added).

[22] *Id.* at 15-16, 237 N.E.2d at 879, 290 N.Y.S.2d at 737 (emphasis added).

[23] The state of New York, for example, would have to provide for the plaintiff if the loss of her husband rendered her destitute. N.Y. Soc. Services Law § 131 (McKinney 1966).

no problem of unfairness to the defendants' insurance carrier since the insurer could not have relied in any way on Maine's statutory limitation in setting premium rates.[24] In sum, the majority seemed to consider *Miller* a "false conflict" case.

Writing for the dissenters,[25] Judge Breitel attacked the majority's reasoning as well as its conclusion. The "false conflict" conclusion drawn by the majority was based on a consideration of post-accident events which, the dissenters believed, should not have been considered in the choice of law deliberations.

The court's determination that New York law should govern appeared to turn on the fact that the defendants at the time of litigation no longer lived in Maine, but were residents of New York. Had the defendants remained domiciled in Maine, it seems likely that, under any test, their liability would have been determined under New York law. Under the vested rights doctrine, no choice of law problem would have arisen, since only the lex loci delicti could be applied.[26] Under "grouping of contacts" doctrine or "governmental interest analysis," the choice of law problem would not be so simple to resolve. Nonetheless, considering Maine's substantial contacts with the accident and its legislatively expressed policy of protecting its residents from wrongful

[24] "[A]n analysis of the actuarial process as well as an inquiry to the Insurance Commission of the State of Maine reveals that the presence of the limitations had no substantial affect on insurance premiums, and a refusal to apply Maine law here will have an infinitesimal effect, if that, on insurance rates in Maine. *See* Morris, Enterprise Liability and the Actuarial Process—The Insignificance of Foresight, 70 YALE L. J. 554, 560-71)." 22 N.Y.2d at 21, 237 N.E.2d at 882, 290 N.Y.S.2d at 741.

[25] Judge Jasen concurred in Judge Breitel's dissenting opinion. Judge Scileppi dissented on the authority of Dym v. Gordon, *supra*, note 21.

[26] The statement perhaps is made too brashly. The defendant in *Kilberg, supra*, note 4, was a corporate domiciliary of Massachusetts at the time of the wrongful death proceedings. The New York court, without abrogating the vested rights doctrine, avoided the application of Massachusetts' law limiting wrongful death recoveries simply by characterizing damages as a matter of procedure which need not be enforced in a foreign court. The strained characterization of damages as a procedural matter in *Kilberg* could be applied in *Miller* to defeat Maine's statutory limitations. This is in fact the treatment accorded the case by the appellate division and the trial court. *See* notes 2 and 4 and accompanying text.

However, the differences in the nature and activities of the defendants in *Kilberg* and *Miller* might have led the Court of Appeals in *Miller*, in considering the totality of circumstances, to decline to use the *Kilberg* characterization. The *Kilberg* defendant, Northeast Airlines, was a large corporation engaged in providing transportation for profit, whereas the defendants in *Miller* were a small entrepreneur and his wife who were not transporting the decedent for pay but merely as an incident to a business and social visit. Unlike the *Miller* defendants, Northeast Airlines had engaged for years in substantial, state-wide business activities in New York. All the significant contacts, with the exception of the place of destination and place of death, were New York oriented. Thus, it was not shocking that the court refused to give effect to the Massachusetts statutory limitation. In *Miller*, on the other hand, all the significant contacts, at least up to and including the time of the accident, were Maine-related. It would be no more difficult for the Court to distinguish *Miller* from *Kilberg* than it was earlier to distinguish "substance" from "procedure."

death judgments in excess of $20,000, it would seem that Maine's law would be considered more appropriate than New York's.

The dissent questioned whether the decision were not likely to discourage defendants, actual or potential, from moving to New York or, on the other hand, if it were not likely to encourage "collusive change of domicile to fix broader liability upon the insurer," where the case involves litigation between family members.[27] Both questions had been dismissed in the majority opinion as contradictory and speculative. The perfunctory dismissal seems an inadequate response to the challenge.

The forum shopping questions are patently not contradictory since it is only when the litigation is between family members, with an insurer as the real party in interest, that the defendant would be inclined to establish residence in New York. Otherwise, the defendant presumably would be extremely reluctant to settle in New York, for fear that the state's liberal choice of law doctrine would impoverish him. If a non-family-member defendant were heavily insured, of course, he would be less concerned about the possibility of a large judgment being rendered against him. His insurer, on the other hand, would be quite concerned.

Nor is forum shopping a "speculative" issue. The majority apparently were satisfied that in fact the defendants were not motivated by forum shopping considerations in moving to New York.

> There may be times where policy considerations such as a desire to prevent forum shopping would require us to ignore changes in domicile after the accident. . . . In the instant case, however, the change in domicile has nothing whatever to do with a desire to achieve a more favorable legal climate, and we see no reason to ignore the facts as they are presented at the time of the litigation.[28]

The decision was rendered on an appeal from a pre-trial order and it is not apparent how the majority reached its conclusion on the defendants' motivation-in-fact in changing their residence. In drawing their conclusion that the defendants were not collusively forum shopping, however, the court may have opened a Pandora's box of perplexing questions, for, after *Miller,* trial courts faced with a similar case will have to determine, as a necessary consideration in the choice of law determination, whether the defendant's change of domicile was undertaken in good faith.

The reference to the defendants' good faith raises more questions than it answers. How does the factual question of good faith affect the roles of the judge and jury in the choice of law process? How is the issue raised? Should any presumptions obtain? Is the burden on the

[27] 22 N.Y.2d at 33, 237 N.E.2d at 889, 290 N.Y.S.2d at 751.
[28] *Id.* at 22, 237 N.E.2d at 882-83, 290 N.Y.S.2d at 742.

plaintiff to establish the defendant's good faith or must the defendant's insurer intervene[29] to prove that defendant changed his residence for forum shopping purposes? What of the effect of the defendant's move on his duty to cooperate with the insurer in the defense of the action? What of the move's effect on the insurer's duty to defend and the conflict of interest problems inherent in the trial of such a case?

Considering the severe hardships occasionally wrought by statutory limitations, it is not surprising that courts sometimes strain to avoid enforcing them. However, the ruling in *Miller* that a post-accident change of domicile is a relevant "contact" to be considered in choice of law deliberations seems to have increased unnecessarily the difficulty of determining prior to litigation what law governs a *Miller*-type case. The court could have avoided the uncertainty likely to arise in future cases by disregarding the post-accident change of domicile, finding Maine law applicable under the *Babcock* test, and by reasserting the validity of the Kilberg rule to defeat the statutory limitation.[30] Although the substance/procedure characterization is strained at best and simply false at worst, nonetheless, use of the technique would accomplish the same result as that reached in *Miller, i.e.,* full compensation, and at the same time it would increase predictability in future choice of law cases. The forum shopping problem discussed in the dissent to *Miller* would not be solved by applying the *Kilberg* doctrine. However, it seems an inescapable fact of life today that, just as there are "good" states in which to domicile a corporation,[31] so there are "good" states in which to be a personal injury plaintiff. Nothing short of a reversion by all jurisdictions to the pre-*Kilberg* vested rights doctrine will stop forum shopping in multi-state personal injury cases.[32]

CHARLES D. CLAUSEN

Poverty Law—King v. Smith and "Man-In-The-Home": The Aid and Services to Needy Families with Children (AFDC) program was established by the Social Security Act of 1935.[1] The program was

[29] In a "direct action" state, the insurer would be a party to the action from its inception and would be in a position to present to the court the issue of whether the insured changed his residence in order to expand his insurer's liability.

[30] The argument against applying the *Kilberg* rationale to a *Miller* fact situation, made in note 27, *supra,* is useful only if the court should desire to limit liability. Since the court in Miller felt that the insurer was the real party in interest, it was interested in extending liability rather than limiting it.

[31] *See* Comment, *Law for Sale: A Study of the Delaware Corporation Law of 1967,* 117 U. PA. L. REV. 861 (1969).

[32] *See* La Brum, *The Fruits of Babcock and Seider: Injustice, Uncertainty, and Forum Shopping,* 54 A.B.A.J. 747 (1968).

[1] The original program was known as "Aid to Dependent Children," under Act of Aug. 15, 1935, ch. 531, 49 Stat. 627. This act was amended in 1962 by Act of July 25, 1962, Pub. L. No. 87-543, Title I, § 104(a)(4), (c)(2), 76 Stat. 185-6, and the name was changed to its present form. Hereinafter the program will be referred to as AFDC.