



**Commentaries on the Conflict of Laws: Foreign
and Domestic: in Regard to Contracts, Rights, and
Remedies, and especially in Regard to Marriages,
Divorces, Wills, Successions, and Judgments
(Volume 2)**

Joseph Story LLD

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By Joseph Story, LLD

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Excerpt from Chapter IX

Subjects to be considered--We next come to the consideration of the operation of foreign law in relation to personal, real, and mixed property, according to the known divisions of the common law, or to movable and immovable property, according to the known divisions of the civil law and continental jurisprudence. For all the purposes of the present commentaries it will be sufficient to treat the subject under the heads of personal or movable property, and real or immovable property, since the class of mixed property appertains to the latter.

Terms of Foreign Law--We have already had occasion to state that in the civil law the term 'bona' includes all sorts of property, movable and immovable; as the corresponding word 'biens' in French, also does. But there are many cases in which a broad distinction is taken by foreign jurists between movable property and immovable property, as to the operation of foreign law. We have also had occasion to explain the general distinction between personal and real laws respectively, and mixed laws, in the sense in which the terms are used in continental jurisprudence; personal being those which have principally persons for their objects, and only treating of property incidentally; real, being those which have principally property for their object, and speaking of persons only in relation to property; and mixed, being those which concern both persons and property.

Doctrine concerning Movables--According to this distribution all laws respecting property, whether it be movable or immovable, would fall under the denomination of real laws; and of course, upon the principles of the leading foreign jurists, would seem to be limited in their operation to the territory where the property is situate. This however is a conclusion which upon a larger examination will be found to be erroneous, the general doctrine held by nearly all foreign jurists being that the right and disposition of movables is to be governed by the law of the domicil of the owner, and not by the law of their local situation.

Grounds of the Doctrine--The grounds upon which this doctrine as to movables is supported, are differently...

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