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THE STATUTE OF FRAUDS AND THE CONFLICT OF LAWS

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I

A study of the American decisions relating to the statute of frauds from the standpoint of the Conflict of Laws reveals the fact that there exists the greatest divergence of opinion with respect to contracts falling within the fourth and seventeenth sections of the original English statute of frauds. It is the purpose of this article to consider the problems that have been raised in connection with these cases, and to suggest a solution. Of the contracts falling within the fourth section of the statute of frauds those presented to the courts involving the Conflict of Laws have been generally contracts not to be performed within a year, contracts of guaranty, and contracts relating to land.

EXCURSUS LAW—The leading case on the subject, *Leroux v. Brown*,^{*} laid down the English law with respect to cases falling within the fourth section of the statute of frauds. An oral agreement had been entered into at Calais, France, between the plaintiff and the defendant under which the latter, who resided in England, contracted to employ the former, who was a British subject resident at Calais, at a salary of 200 pounds per annum, to collect poultry and eggs in that neighborhood for transmission to the defendant in England, the employment to commence at a future day, and to continue for one year. In a suit for breach of contract evidence was given on the part of the plaintiff to show that by the law of France such an agreement was capable of being enforced, although not in writing. For the defendant it was insisted that notwithstanding the contract was made in France, when it was sought to enforce it in England, it must be dealt with according to

^{*} (1852) 12 C. B. 600.

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Didier Musso



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