Westlake defines Private International Law as "That department of private jurisprudence which determines before the courts of what nation each suit should be brought, and by the law of what nation it should be decided. It may be farther defined by its differences from the departments which respectively border on it—private, muncipal, and public international law." (p. 17.)

Fœlix in his T. du D. Int. Privé (p. 2.) says:—"On appelle droit international privé (jusgentium privatum) l'ensemble des règles d'après lesquelles se jugent les conflits entre le droit privé des diverses nations; en d'autres termes, le droit international privé se compose des règles relatives à l'application des lois civiles ou criminelles d'un Etait dans le territoire d'un Etat etranger."

Sir Robert Phillimore does not attempt to give a definition, but contents himself with calling Private International Law, Comity 4, Int. L. pp. 1, 17.

Wharton, following Phillimore's example, refrains from giving a definition.

Westlake's definitions are unsatisfactory, for reasons which are apparent—the first, because the words department of private jurisprudence convey no definite meaning, and the word suit does not include all the subjects of Private International Law—the second, on account of its vagueness.

Fœlix's first definition errs, in styling Private International Law to be the body of rules by which the conflict between the laws of different States is decided. There is really no conflict between the laws of different States, although they may differ from each other; his second approaches more nearly to perfection, but is marred by his making the criminal law of a foreign State applicable in a case of Private Inter. Law.

As for the expression "Comity," it would seem as if no term could be weaker or more incorrect. The rights and duties of persons do not exist, nor can they be enforced through Comity; they are the creatures of the law. Courts decide *ex justitia*, never out of *complaisance*.

Macqueen, J. C., in Watson *vs.* Kenton, (1791), Bills, 8vo. Ca. 106; 2 Kent, Com. 611.; Fenton *vs.* Livingstone (1858 3, Macq., 497, 498.) Lord Wensleydale Westlake, § 144, 160.

Proceeding to consider in what particulars a person may become subject to the operation of Private International Law, we find that all legal relations between persons may be subject to its government—thus, all rights and all duties are susceptible of its influence.

It becomes necessary, therefore, to consider the effect of Private International Law upon

1st. Persons, their capacity for rights and capacity for acting, or the conditions under which they can have rights and acquire rights.

2nd. The legal relations *quoad*.

(*a*) Rights to specific things.

(*b*) Obligations.

(*c*) Rights to a whole estate, as an ideal object of indefinite extent (succession).

(*d*) Family relations.

It is to be remembered that into the division of legal relations that of persons always enters for consideration; it may and frequently does happen that the person's capacity for rights or action is not acted upon or governed by the foreign law, but even in such cases the exemption from such government may be said to be created by Private International Law.

All States now-a-days have certain defined boundaries—the inhabitants of each State constitute a species of corporation which within its own territory is vested with the supreme power of making laws for its own peace, welfare and good government. By those laws strangers, members of another corporation, whilst passing through or residing in its territory, are bound as are its own subjects. There are a few exceptions to this general rule created by Public International Law, but for the sake of brevity no notice will be taken of them, and the general rule will be treated as if it had no exception. Again, within one State the law may not be homogeneous throughout its borders; different portions may have different laws, as in Great Britain, the laws of Scotland, Ireland and England are not the same. Again, in Canada the laws of the different provinces all vary from each other, and in the United States the law of each State differs from that of its sister States. Yet in all these instances the authority and supremacy of what may be called the local laws do not extend beyond certain territorial limits.

If it be admitted that legal relations are the creatures of the law, and that each territorial law creates the legal relations which arise in the territory within which it is supreme, the law of the place of birth of such legal relation is the law which governs it.

No difficulty can be experienced when the legal relation has been created exclusively within the territorial limits of a State wherein the law is the same everywhere, between persons domiciled therein, and if in the case of a bilateral contract the obligations of both parties thereto are to be performed therein—in such case the law of that State alone is to be looked to as governing such legal relation, and no question of Private International Law is thereby raised, if the suit founded on such legal relation is there instituted. When, on the contrary, as Savigny puts it, 8th vol. 346, "at a particular place a law suit is to be decided, as to the performance of a contract or the ownership of a thing, but the contract was entered into at another place than that of the tribunal; the thing in dispute is situated elsewhere, and not in the country of the court, the two places have a different territorial law; besides this, the parties to the cause may, in regard to their persons, belong to the place of the court, or both to a foreign place, or both to different places."

All personal actions brought by private individuals are founded upon obligations. Contract in the present age of commerce is the most fertile source of obligations, and I therefore select the division of obligations, the sub-division of contracts, as the subject to be now treated.

Bearing in mind the definition already given of an