

The American Revolution and the European Evolution in Choice of Law: Reciprocal Lessons

[Symeon Symeonides](#) (*Williamette*) has posted “The American Revolution and the European Evolution in Choice of Law: Reciprocal Lessons” on SSRN (forthcoming in *Tulane Law Review*, Vol. 82, No. 5, 2008.) Here’s the abstract:

This Article is an invited contribution to a symposium held at Duke University Law School under the title “The New European Choice-of-Law Revolution: Lessons for the United States?” [see [here](#)] The Article disputes part of this title by contending that, unlike its American counterpart, European private international law (PIL) has rejected the route of revolution and has instead opted for a quiet and continuing evolution. Nevertheless, this evolution has produced statutory rules and exceptions that resolve several categories of tort conflicts in the same way as American courts after four decades of “revolution,” experimentation, and reinventing the wheel in each case. The quality and efficiency of these rules suggest that revolution is not necessarily the most productive nor quickest route to renewal and improvement. The Article concludes that the European experience can help American conflicts law overcome its innate anti-rule syndrome and develop its own rules without surrendering the methodological or substantive gains of the choice-of-law revolution. Thus, the Article answers affirmatively the question posed by the Symposium’s subtitle.

The Article also turns the Symposium’s question in the opposite direction by asking whether the American conflicts experience holds any lessons for Europe. The Article

concludes that a discerning examination of this experience can help European PIL in several ways, including fine-tuning its own choice-of-law rules, allowing more flexible exceptions, overcoming its own phobias against issue-by-issue analysis and depeçage, and recognizing and appropriately resolving certain false conflicts

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