

Symeon C. Symeonides, The Choice-of-Law Revolution Fifty Years after Currie: An End and a Beginning

Dean Symeon C. Symeonides (Willamette University – College of Law) has posted a new article to SSRN. It is to be published in the University of Illinois Law Review, Vol. 2015, No. 2, 2015. Here is the abstract:

This Article is part of a symposium marking the fiftieth anniversary from the passing of Brainerd Currie (1913-1965), the protagonist of the American choice-of-law revolution that began in the 1960s.

The Article consists of four parts. Part I discusses what was wrong and what is right with the key component of Currie’s “governmental interest analysis” — his concept of “governmental” or state interests. It contends that, when properly conceived, state interests can provide a rational basis for usefully classifying conflicts into three categories and sensibly resolving conflicts falling within two of those categories (“false” and “true” conflicts).

Parts II-IV discuss the revolution’s past, present, and future. Part II chronicles the revolution in tort and contract conflicts by tracing the gradual abandonment of the lex loci delicti and lex loci contractus rules in the majority of states of the United States. Part III summarizes the methodological changes produced by the revolution and the substantive results reached by the courts that joined it. Part IV builds the case for an exit strategy that will turn the revolution’s numerical victory into a substantive success by using the vehicle provided by the process of drafting the Third Conflicts Restatement.