

Symeonides on American Federalism and Conflicts

Dean Symeon Symeonides has posted American Federalism and Private International Law on SSRN. The abstract reads:

This Article is written for readers outside the United States, especially those in the European Union, who are interested in knowing how American federalism has affected the development of American conflicts law.

Among the topics discussed in the Article are: the constitutional allocation of law-making powers between the federal and state governments; the Supreme Court's interpretation of the constitutional clauses that have a bearing on state choice-of-law decisions; the relative insignificance of interstate as opposed to international boundaries; the development of state choice of law for interstate conflicts; and the law applicable to international conflicts between federal or state law, on the one hand, and foreign law, on the other.

The Article discusses how American conflicts law has moved: (1) from the rigidity of the First Conflicts Restatement to the total flexibility of the choice-of-law revolution; and (2) from the Supreme Court's close scrutiny of state choice-of-law decisions during the early part of the twentieth century to the laissez faire stance of the Court's recent jurisprudence. The first movement predates a parallel but much smaller move toward flexibility in Europe, while the latter movement is contrary to the recent rapid centralization of private international law exemplified in the European Union's Rome I and Rome II regulations.

The Article suggests that the preferred option is a middle course between the excessive flexibility of the American choice-of-law revolution and the European preoccupation with certainty, and between the American de facto regime of total decentralization and the European Union's rush toward centralization of private international law.

The article is forthcoming in the *Hellenic Journal of International Law* (2010). It can be freely downloaded [here](#).