Sun Oil v Wortman

* 1. Can ct use Kansas SOL
  2. Ct upheld
     1. Makes sense
        1. What about party expectations?

Everyone knows SOL of forum might be applied

* + - 1. What about state interests
         1. procedural interest
  1. But Scalia – looks at it historically - SOLs were treated as procedural at time adoption of FF&C Clause
     + 1. Book says questionable decision
          1. KS would not be interested in giving greater amount of time to non-Kansans
          2. Green: Why not? – if tied to views about evidence
       2. In any event the sister state SOLs were not substantive
       3. “Although in certain circumstances standard conflicts law considers a statute of limitations to bar the right, and not just the remedy, petitioner concedes, that (apart from the fact that Kansas does not so regard the out-of-state statutes of limitations at issue here) Texas, Oklahoma, and Louisiana view their own statutes as procedural for choice-of-law purposes, see”
          1. So what is the reason to apply them?
          2. do Kramer & Roosevelt think that TX’s SOL must be applied instead of KS’s even though KS wants its SOL to be applied and TX does not care…?

BUT KS ct also presumed the sister state laws were the same as Kansas law, allowing certification

there was no direct cases in sister states on point

is that a violation of FF&C?

SCt said it is OK

* “To constitute a violation of the Full Faith and Credit Clause or the Due Process Clause, it is not enough that a state court misconstrue the law of another State. Rather, our cases make plain that the misconstruction must contradict law of the other State that is clearly established and that has been brought to the court's attention.”
* Green – this is a mistake
* Think of Erie
* federal courts have an obligation to predict what the relevant state SCt would say
  + they cannot presume that state law is like fed law
* sister state courts have the same obligation under FF&C (assuming that they have a FF&C obligation to apply sister state law)
  + they must predict what sister state SCt would decide

the standard that the SCt spelled out is really about when a state ct’s decision will be entertained by the USSCt as a violation of FF&C – the standard of appellate review

– that is different from the question of what a state ct’s obligation is

compare Erie

a fed ct has the duty to predict what a state SCt would say

but the US SCt will not entertain a case simply because a party says that the fed ct violated its Erie obligation

otherwise the USSCt would be flooded with cases

it will take a case only when the fed ct’s decision ignores clearly established state law that is brought to the fed ct’s attention…

the same distinction should be used for state cts interpreting sister state law