

December 2019

Exclusive Workmen's Compensation Acts and Conflict of Laws

Wililam J. Stokes

Follow this and additional works at: <https://scholarship.law.uwyo.edu/wlj>

Recommended Citation

Wililam J. Stokes, *Exclusive Workmen's Compensation Acts and Conflict of Laws*, 10 Wyo. L.J. 149 (1956)
Available at: <https://scholarship.law.uwyo.edu/wlj/vol10/iss2/8>

This Comment is brought to you for free and open access by Law Archive of Wyoming Scholarship. It has been accepted for inclusion in Wyoming Law Journal by an authorized editor of Law Archive of Wyoming Scholarship.

position, that he reserves the right to engage in enterprises which are similar and in competition with the business of the corporation.⁵⁰ Notice of this agreement should be made available to as many shareholders as is practical,⁵¹ and if the circumstances permit, it is preferable not to provide for a salary.⁵²

But, an attorney, who is confronted with the problem of litigating the issue raised by the hypothetical, will find that he is delegated to the task of sifting overlapping cases which deal with the very general principle of good faith. His search will be to find cases which involve facts similar to those with which he must deal. However, if the case involves a director of a mineral corporation, bad faith must be very apparent before the doctrine of corporate opportunity will be applied. Certainly, in the case of an honest promoter, there should be no application of the doctrine,⁵³ and therefore a promoter should be permitted to participate in as many corporations as he desires.

GEORGE W. HOPPER

EXCLUSIVE WORKMEN'S COMPENSATION ACTS AND CONFLICT OF LAWS

The recent decision of *Carroll v. Lanza*¹ brings little stability to a rather confused field of law. This is so because it is subject to different interpretations. By some it will probably be praised because it wipes away some of the overly-technical rules which have prevailed for a number of years in the field of workmen's compensation and the conflict of laws. By others it will probably be criticized because it burdens parties with too much guess-work as to how the forum will exercise a choice of rules given it by the United States Supreme Court. The purpose of this note is to look closely at the decision in relation to past decisions and to try to determine the rationale of the court.

A look at the facts in the case sufficiently presents the problem. The employee Carroll and the employer Hogan were both residents of Missouri and they entered into an employment contract there. Hogan in turn contracted to do a painting job in Arkansas for Lanza, a Louisiana contractor. While in Arkansas on the job, Carroll was injured. Hogan's insurer voluntarily began paying Carroll under Missouri's Workmen's Compensation Law,² which provided that the rights and remedies would

50. *Olson v. Basin Oil Co. of California*, 288 P.2d 952, 955 (Cal. 1955). The contract in this case provided: "Mr. Willis shall be free to operate in his individual capacity as a petroleum engineer and as an oil operator without any obligation to account to this corporation for any advantage, benefit, or profit, financial or otherwise, which he may obtain as the result of his operations therein."

51. *Supra* note 49.

52. *Pioneer Oil and Gas Co. v. Anderson*, 168 Miss. 334, 151 So. 161, 164 (1933).

53. *Olson v. Basin Oil Co. of California*, 288 P.2d 952 (Cal. 1955).

1. *Carroll v. Lanza*, 349 U.S. 408, 75 S.Ct. 804, 99 L.Ed. 722 (1955).

2. R.S. Mo. 1949, § 287.010.

be exclusive of all other rights and remedies at common law or otherwise,³ unless the employee or employer had elected prior to the accident not to accept the provisions.⁴ The parties had not elected to reject the provisions of Missouri's statute, but Carroll later sued Lanza for negligence in an Arkansas court. The Arkansas Workmen's Compensation Law,⁵ unlike Missouri's, allowed a common law action against a third party.⁶ But Lanza pleaded the Missouri law as a defense, saying that Arkansas should give full faith and credit to it and therefore, since it purported to be exclusive, this action would not lie. However, the Arkansas court, holding that Lanza was a third party within the meaning of their Act, rendered judgment for the employee. The Circuit Court of Appeals reversed, but Mr. Justice Douglas, writing the majority opinion for the United States Supreme Court, held that Arkansas was not required to give full faith and credit to the Missouri statute.

The purpose of this note is not to explore all the difficulties which courts have experienced in workmen's compensation and conflict of laws. The problem here is more specific and restricted. But it should be mentioned that these compensation laws offered the courts a more than formidable stumbling block from the very beginning. Some courts, disregarding the fact that the laws were more than a statutory substitute for common law rules of liability, applied the usual conflict of law rules of tort liability, and ruled that the worker's claim must be governed by the law of the place of injury.⁷ Other courts proceeded upon the contract theory, and said that the worker can recover under the law of the state where the contract was made, even though the injury occurs outside of the state.⁸ These decisions usually allowed the worker to make a choice.⁹ But as mentioned above, the problem here is specifically concerned with the situation in which there is an exclusive statute involved, as is Missouri's, and in which the exclusive statute is pleaded as a bar to an action in a different state.

The Supreme Court first wrestled with facts similar to the instant case in 1932, when *Bradford Electric Co. v. Clapper*¹⁰ arose. A contract of employment was entered into in Vermont which was the residence of both employer and employee. In the course of the employment, the employee had to do some temporary work in New Hampshire, and while there, he was killed on the job. The Vermont statute, like Missouri's, made its law exclusive of all other remedies and denied him any other remedy except that provided by the Act. A suit was brought by the deceased's administratrix in New Hampshire under a common law tort theory. The Ver-

3. R.S. Mo. 1949, § 287.120.

4. R.S. Mo. 1949, § 287.060.

5. Ark. Stats. (1947), § 81-1301.

6. Ark. Stats. (1947), § 81-1340.

7. *Union Bridge & Construction Co. v. Industrial Commission*, 287 Ill. 396, 122 N.E. 609 (1919).

8. *Ben Wolf Truck Lines v. Bailey*, 102 Ind.App. 208, 1 N.E.2d 660 (1936).

9. Goodrich, *Handbook of the Conflict of Laws* (2nd Ed. 1938), p. 243.

10. *Bradford Electric Co. v. Clapper*, 286 U.S. 145, 52 S.Ct. 571, 76 L.Ed. 1026 (1932).

mont law was pleaded as a bar to the action, and the Supreme Court enunciated the rule that the forum must permit a defense based on the exclusiveness of the sister-state statute where the only contract of the forum was that it was the place of injury.

At first glance, it appears that the only substantial difference between the instant case and the *Clapper* case, supra, is that here the work in Arkansas seemed to be more than temporary. But Mr. Justice Douglas gives no intimation in his opinion that he placed any significance upon this fact. The question which must be answered is why wasn't this determinative of the instant case? That case definitely found that a state statute is a "public act" within the full faith and credit clause.¹¹ Mr. Justice Brandeis, in writing the *Clapper* opinion, supra, seemed to voice a desirable note when he said that the purpose of the rule laid down was "to provide . . . employees a remedy which is both expeditious and independent of proof of fault . . . (and) employers a liability which is limited and determinate."¹² The answer seems to be that when the majority of the court in the instant case looked back at *Clapper*, their view was somewhat obstructed, and they saw not only *Clapper*, but also *Alaska Packers Association v. Industrial Accident Commission*¹³ and *Pacific Employers Insurance Co. v. Industrial Accident Commission*.¹⁴ A look at these cases is necessary to simulate the panoramic view which the Supreme Court had.

In the *Alaska Packers* case, supra, the contract of employment was made in California, the work was to be performed wholly in Alaska, and the parties stipulated in the contract that the Alaska Compensation Act was to apply. The Alaska Act, like Missouri's, provided that it was to be exclusive. The employee, a non-resident of both California and Alaska, was injured in Alaska and when he returned to California, he filed for compensation under the California law. The California Supreme Court and the United States Supreme Court allowed him to recover. When closely scrutinized, the decision lends little support to the instant case. There were factors present which cannot be found in the instant case. The geographical factors were seized upon by the California court in ignoring the stipulation that the exclusive Alaska Act was to apply. The court said that it was probable that workers injured in Alaska and returning to California would be unable to return to Alaska to prosecute their claims, and that they therefore were likely to become public charges to California.¹⁵ In the instant case, the worker was injured in Arkansas, but he was returned immediately to a Missouri hospital and remained in Missouri. Also, the

11. *Bradford Electric Co. v. Clapper*, 286 U.S. 145, 154, 52 S.Ct. 571, 76 L.Ed. 1026 (1932).

12. *Bradford Electric Co. v. Clapper*, 286 U.S. 145, 159, 52 S.Ct. 571, 76 L.Ed. 1026 (1932).

13. *Alaska Packers Association v. Industrial Accident Commission*, 294 U.S. 532, 55 S.Ct. 518, 79 L.Ed. 1044 (1934).

14. *Pacific Employers Insurance Co. v. Industrial Accident Commission*, 306 U.S. 493, 59 S.Ct. 629, 83 L.Ed. 940 (1938).

15. *Alaska Packers Association v. Industrial Accident Commission*, 294 U.S. 532, 542, 55 S.Ct. 518, 79 L.Ed. 1044 (1934).

Supreme Court said in the *Alaska Packers* case, *supra*, that a "conflict of laws is to be resolved, not by automatically compelling the courts to accept the other, but by appraising the governmental interests."¹⁶ Mr. Justice Douglas makes no pretense of weighing governmental interests aside from saying that the "state of the forum also has interests to serve and protect"¹⁷ and that "her interests are large and considerable."¹⁸ But he doesn't bother to list them. In fact, he admits that in this case "Carroll's injury may have cast no burden on her or on her institutions."¹⁹

Pacific Employers, *supra*, when viewed as possible authority for the instant case, fares no better. A Massachusetts resident entered into an employment contract in Massachusetts, to which the exclusive Massachusetts Act applied, and while temporarily working in California, he was injured. The Supreme Court upheld the allowance of his claim under the California law. But here again are factors present which seem to be absent from the instant case. The California Supreme Court had found that it would be contrary to the public policy of the state to give effect to the Massachusetts law because the California statute specifically provides that "no contract, rule or regulation shall exempt the employer from liability for the compensation fixed by this Act."²⁰ The California court had also declared that the application of the Massachusetts law would be obnoxious because it might require physicians and hospitals to go to another state to collect charges for medical care and treatment.²¹ In the instant case, there is no problem of Arkansas physicians and hospitals having to resort to Missouri courts to collect any fees for it appears that Carroll was brought immediately to Missouri after the injury. There is also no question of "obnoxiousness" unless it can be found in mere nonconformity of laws, and on this point the Supreme Court has spoken: the fact that the laws of one state permit its employees to elect, after injury, whether to sue for negligence or avail themselves of its compensation provisions does not establish that it would be obnoxious to the public policy of that state to give effect to another state's statute.²²

The examination of these cases indicates that up until the decision of the instant case, an exclusive statute like Missouri's had to be given full faith and credit unless one of two factors were present—either (1) the state called upon to give full faith and credit has something more than a casual interest, like the concern over a worker's becoming a public charge, or (2) the statute for which is demanded full faith and credit is obnoxious for some reason to the public policy of the state of the forum. It is sub-

16. *Alaska Packers Association v. Industrial Accident Commission*, 294 U.S. 532, 547, 55 S.Ct. 518, 79 L.Ed. 1044 (1934).
17. *Carroll v. Lanza*, 349 U.S. 408, 412, 75 S.Ct. 804, 99 L.Ed. 722 (1955).
18. *Carroll v. Lanza*, 349 U.S. 408, 413, 75 S.Ct. 804, 99 L.Ed. 722 (1955).
19. *Carroll v. Lanza*, 349 U.S. 408, 413, 75 S.Ct. 804, 99 L.Ed. 722 (1955).
20. *Stats.*, 1931, ch. 350, p. 2296, 2 *Deering's General Laws, Act. 4749*, § 27 (a).
21. *Pacific Employers Insurance Co. v. Industrial Accident Commission*, 306 U.S. 493, 504, 59 S.Ct. 629, 83 L.Ed. 940 (1938).
22. *Bradford Electric Co. v. Clapper*, 286 U.S. 145, 161, 52 S.Ct. 571, 76 L.Ed. 1026 (1932).

mitted that the reading of the majority opinion in the instant case demands the conclusion that the law is changed. And it is changed without benefit of overruling previous conflicting cases. The interest of the forum here, as pointed out in the dissenting opinion, is solely dependent on the occurrence of the injury within its borders. And this apparently is the rule of the case—injury within the borders of the state of the forum is enough to entitle it to reject any defense based upon full faith and credit. The court said that Arkansas was free to accept the defense or reject it. This is a choice which the court could make, apparently without any necessity of offering reasons for the choice. This seems to place an unfair burden upon litigants who will have no inkling of how a court will choose.

The moral, if a moral is to be derived from the case, is simple enough. To our black-robed dispensers of justice, the statute is not so fair-haired as its cousin, the judgment—despite the fact that Congress has made it clear by legislation²³ that statutes are entitled to the same full faith and credit within the meaning of the Constitution.²⁴

WILLIAM J. STOKES

THE RESISTANCE TO FLUORIDATION

In a country such as ours that is so acutely conscious of its health, fervent controversies frequently arise over proposed or newly adopted public health measures. One of the most popular current controversies in this area is the battle over the fluoridation of municipal water supplies. Both state and federal governments are charged with the responsibility of public health. The modern extension of public health measures through government regulation poses the double question of how far people want their lives regulated in the interests of good health, and how far the Constitution of the United States will allow government to go in adopting such measures.

Should municipalities artificially fluoridate their water systems? It is claimed by the advocates of fluoridation, who have much scientific support, that fluoridation reduces the occurrence of tooth decay, known in dentistry as dental caries, in children from six to eighteen years old. The fluoridation process is accomplished by adding fluorides directly to municipal water mains by means of special equipment. The Ohio trial court has given detailed consideration to the scientific material in support of fluoridation.¹ The results tend to prove that in those areas of naturally low fluoride content, where fluorides have been artificially ingested, the occurrence of dental caries has been significantly reduced. The U. S.

23. 62 Stat. 947 (1948), 28 U.S.C. § 1738 (1948).

24. U.S. Const., Art. IV, § 1.

1. See especially *Kraus v. City of Cleveland*, 116 N.E.2d 779 (Ohio 1953), for a detailed consideration of the scientific aspects.