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# Workmen's Compensation—Full Faith & Credit—Provision for Exclusive Jurisdiction in Administrative Board.—Crider v. Zurich Ins. Co

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these advertisers could and probably would shift to other types of television commercials. It is submitted, however, that there is a trend in our complex market economy toward great distances between buyers and sellers. Demonstrative advertising is necessary to compensate for the informational gap which results from this separation. Therefore, the alternatives facing the Court in the towel hypothetical would be to (1) allow transmitting up and the consequent consumer deception, or (2) forbid it, causing the buying public to lose a large segment of desirable demonstrative advertising.

Returning to the decision in the instant case, similar economic ramifications may be seen. The majority, in forbidding the use of mock-ups, has condemned makers of products which transmit down to the dilemma of committing suicide by televising down or abandoning informative television demonstrations.

It appears that the majority has placed on the television industry the burden of improving technologically or losing a considerable segment of demonstration advertising. It would further seem that any adaptation inside the television camera or use of a colored filter over the camera lens to make white transmit as white (or sandpaper transmit as sandpaper) would be a permissible measure to compensate for the difficulties inherent in all light transmission. But, both are manipulations of the truth and in effect are no different than a mock-up. Yet, here the axe would fall, though the result is the same and only the method employed in the studio is different.

In summary, the majority may have lost sight of the objective of section 5, namely, the protection of the consumer. Its decision provides section 5 protection only to the consumer who needs no protection since he has received exactly what he expected, and places unreasonable burdens on television advertisers and the television industry.

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**Workmen's Compensation—Full Faith and Credit—Provision for Exclusive Jurisdiction in Administrative Board.**—*Crider v. Zurich Ins. Co.*[1]— Petitioner, a resident of Alabama, was injured in that state while in the employ of Lawler Construction, a Georgia corporation. At the time of injury both he and his employer were under the Georgia Workmen's Compensation Act.[2] Petitioner brought suit against Lawler in an Alabama court under the Georgia act and was awarded a default judgment. To enforce this judgment, the petitioner instituted a diversity action against Zurich Insurance, the workmen's compensation carrier for Lawler, in a federal district court in Alabama. Zurich filed a motion to dismiss, contending that since the Georgia act invested primary jurisdiction in the Industrial Accident Board of Georgia,[3] the Alabama court had lacked subject-matter jurisdiction to enter the default

[1] 85 Sup. Ct. 769 (1965).
[2] Ga. Code Ann. § 114 (1956).
[3] Ga. Code Ann. § 54-108 (1960).

judgment. The federal court granted the motion.[4] The court of appeals affirmed[5] and petitioner was granted certiorari. The Supreme Court[6] HELD: The Full Faith and Credit Clause[7] does not compel a state court in a suit brought under the workmen's compensation act of a sister state to give effect to a provision of the foreign act investing primary jurisdiction in an administrative board of the sister state.

The Court relied on *Alaska Packers Ass'n v. Industrial Acc. Comm'n*,[8] *Pacific Employers Ins. Co. v. Industrial Acc. Comm'n*,[9] and *Carroll v. Lanza*[10] in support of its decision. These cases marked a departure from the earlier view established in *Bradford Elec. Light Co. v. Clapper*.[11] Under the earlier view, a state could fix one exclusive remedy for personal injuries suffered by its residents while within or without its borders and the Full Faith and Credit Clause compelled other states to refrain from enforcing any remedy inconsistent with that provided by the home state.

The decision in *Alaska Packers* allowed an employee to obtain from the court of his state of residence a remedy different from that provided by the compensation act of the state of injury despite the employee's prior agreement to be bound by the remedy afforded by the state of injury. Exclusive remedies were not at issue there, and the significance of the case lies in the Court's permitting the state of residence to invoke its own remedy to defeat the employment agreement voluntarily made by one of its citizens with a foreign employer. Recognition was given to the interest of the state of residence in opening its courts to provide relief for its own citizens, and that interest prevailed over the foreign state's interest of protecting and enforcing valid contracts made within its borders.

A scant four years later, the *Bradford* decision was further qualified in *Pacific Employers* where the Court allowed California, the state of injury, to apply its own workmen's compensation act when a Massachusetts resident sought relief for injuries sustained while working on a temporary assignment in California. The employee was regularly employed in Massachusetts by a Massachusetts corporation; and at the time of the injury, he and his employer were under the Massachusetts Corporation Act, which purported to give an exclusive remedy regardless of the place of injury. That decision weighed the conflicting interests of the state of injury and the state of residence and determined that the state of injury was not precluded from utilizing its own act even though confronted with an exclusive act of a sister state. The interests which the Court there recognized were: bodily and economic protection of those working within the forum state, the exclusive provision of its own act, and the convenience of providing California citizens with a local remedy for

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[4] 224 F. Supp. 87 (N.D. Ala. 1963).

[5] 324 F.2d 499 (5th Cir. 1963).

[6] Justices Goldberg, Harlan, and Stewart dissented on the ground that the Court should not have reached the constitutional question.

[7] U.S. Const. art. IV, § 1.

[8] 294 U.S. 532 (1935).

[9] 306 U.S. 493 (1939).

[10] 349 U.S. 408 (1955).

[11] 286 U.S. 145 (1932).

payment of bills incurred by the injured employee. The Massachusetts interests which were relegated to subservience included the exclusive provision of its statute and recognition beyond its borders of employment contracts entered into by one of its private citizens with one of its corporate citizens.

*Carroll v. Lanza* was a further extension of this trend. There the Court held that a resident of Missouri, injured while working in Arkansas, was not bound by the Missouri Compensation Act—which purported to grant an exclusive remedy for injuries sustained within and without its borders—and Arkansas could grant *common law* damages in addition to the remedy provided by the Missouri act. In deciding *Carroll*, the Court again balanced the conflicting interests of the state of injury and the state of residence and allowed the interests of the former to prevail.

In the present case, the Court was confronted with an entirely different factual situation in two respects. Here the employee chose to seek his remedy under the foreign compensation act, not under the law of the state of injury and residence; and the act with which the Court was concerned not only embraced the foreign state's desire that its remedy be respected as exclusive by sister states, but also provided that an administrative board be invested with exclusive jurisdiction for damage assessment of injuries sustained by employees both within and without its borders. It would seem that these differences were substantial and that the earlier decisions were not precedent for the present result. Specifically, the question in the earlier decisions[12] had been whether the state of injury had sufficient interest to apply its own compensation act or grant common law damages when the act of the sister state, under which the employer and employee were operating, purported to provide an exclusive remedy. The Court's affirmative holdings on this question in *Pacific Employers* and *Carroll* were in no way determinative of the question presented by the case at bar, namely, whether the state of residence and injury, once asked to apply a sister state's compensation act, could disregard a provision in the act investing exclusive jurisdiction in an administrative board.

The Court emphasized that "the compensation acts of either jurisdiction may, consistently with due process, be applied in either"[13] and that "as the *Pacific Employers Insurance Co.* case teaches, she [the state of injury] may supplement or displace it [the foreign act] with another, insofar as remedies for acts within her boundaries are concerned."[14] The quoted passages, however, must be read in connection with the factual situations which were before the Court at the time: in both cases the Court was neither asked to apply the act of the foreign state nor faced with a provision in the foreign act purporting to invest exclusive jurisdiction in an administrative board. Moreover, it would be an unrealistic extension of either "supplement" or "displace," as used in the *Carroll* case, to enable the decision to fall within the scope of those words.

The present decision, not compelled by the cases cited in its support,

[12] This does not include Alaska Packers Ass'n v. Industrial Acc. Comm'n, supra note 8. As previously stated, exclusive provisions were not at issue there.

[13] Id. at 544.

[14] Carroll v. Lanza, supra note 10, at 413-14.

might find justification in the earlier case of *Wells v. Simonds Abrasive Co.*[15] or in a balancing of the interests of Alabama and Georgia.[16]

In the *Wells* case, which appears more closely in point than any case cited by the Court,[17] the majority indicated that the Full Faith and Credit Clause did not compel a state to adopt any particular set of conflict of laws rules, but only set "minimum requirements" to be observed by the forum state when interpreting a sister state's law.[18] The Court failed to identify the minimum requirements made essential under the Constitution and established only that the forum state could apply its own statute of limitations even though the foreign statute under which the action had been brought had its own limitation period. The *Wells* case, however, seems questionable support for the present result. In the first place, the Court in *Wells* declined to couch its decision in terms of whether the limitation period was so intimately connected with the right that it had to be enforced along with the right;[19] and only on this reasoning could the *Wells* case lend support to the present decision. Second, the *Wells* Court felt its decision was compelled by the prevailing rule set down by previous cases "that the Full Faith and Credit Clause does not compel the forum state to use the period of limitation of a foreign state."[20] There appears to be no prevailing rule as to a provision in the foreign act investing exclusive jurisdiction in an administrative board.

In the *Pacific Employers* case, which abolished the automatic subserviency of the state of injury to the public act of the state of residence, due consideration was given to balancing the interests of the states. The Court has committed itself to be the arbitrator of each such conflict and has indicated that the weighing factors will be the "competing public policies involved."[21] It has described such conflicts not only as conflicts between the public policies of two or more states, but as "a more basic conflict of the strong unifying principle embodied in the Full Faith and Credit Clause looking toward maximum enforcement in each state of the obligations or rights created or recognized by the statutes of sister states" and a conflicting policy within the forum state.[22]

The Court in the present case did recognize the various interests of Alabama:

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[15] 345 U.S. 514 (1953). The Court in the present case dismissed this case in a brief footnote.

[16] Tennessee Coal, Iron, & R.R. v. George, 233 U.S. 354 (1914) (Holmes, J., dissenting) lends no support to the present decision. There the tribunals which were vested with exclusive jurisdiction to enforce the statutory right—the state courts—had a prior and separate existence and thus were not intimately related to the right. In the present case, however, the board was specially created by the statute creating the right and the board's sole purpose was the administration of the statute; thus the right and the enforcing body were intimately related.

[17] It appears more closely in point in that the forum state was there asked to apply a sister state's law.

[18] Wells v. Simonds Abrasive Co., supra note 15, at 516.

[19] Id. at 517.

[20] Ibid.

[21] Hughes v. Fetter, 341 U.S. 609 (1951): "It is for this Court to choose in each case between the competing public policies involved." Id. at 611.

[22] Id. at 612.

> "The State where the tort occurs certainly has a concern in the problems following in the wake of the injury. The problems of medical care and of possible dependents are among these. . . ." The State where the employee lives has perhaps even a larger concern, for it is there that he is expected to return; and it is on his community that the impact of the injury is apt to be most keenly felt.[23]

These interests would have justified Alabama in ignoring the Georgia act altogether and in applying its own compensation act or in granting common law damages; for as the *Carroll* and *Pacific Employers* decisions point out, the interests of Alabama as the state of injury and residence were at least commensurate with Georgia's interest in having its act applied. However, once Alabama had been asked to apply Georgia's act and sought to apply the act, these interests were no longer operative against Georgia's interest in having the provisions of its act uniformly applied. If this were not so, when an injured employee asked the state of his injury or his residence to apply the workmen's compensation act of a sister state, these interests would justify the state of residence or injury in deleting any provision of the foreign act, thus making a shambles of the Full Faith and Credit Clause.

One interest not considered by the Court, but alluded to in *Alaska Packers*, might possibly have provided some basis for ignoring the provision of Georgia's act: Alabama's interest in supplying its citizens with a convenient forum in which they can enforce their rights of action. However, this position assumes that the right is not intimately related to the enforcing body, and it is not initially clear that this is so.[24] Moreover, it is generally recognized that the right to workmen's compensation rests upon the statute which both creates and measures that right.[25] In the present case, Georgia measured its statutory right to workmen's compensation with the requirement that the injured employee bring his claim before an administrative board; recovery on Georgia's statutory right to compensation, then, depended on compliance with this requirement.

It seems, therefore, that an opposite result in the present case would have been more proper. Neither the three cases relied upon by the Court nor the *Wells* decision lend any support to the present result. Moreover, whatever interests Alabama had were already sufficiently protected by the *Pacific Employers* and *Carroll* decisions and certainly were not sufficient to prevail over Georgia's interest in maximum enforcement of its statutory rights and obligations.

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[23] Supra note 1, at 770.

[24] See note 16 supra.

[25] See Flynn v. Union City, 32 N.J. Super. 518, 108 A.2d 629 (1954); State ex rel. Koger v. Industrial Comm'n, 48 N.E.2d 114 (Ohio Ct. App. 1942); Gerber v. State Industrial Acc. Comm'n, 164 Ore. 353, 101 P.2d 416 (1940); Rogers v. Traders & Gen. Ins. Co., 135 Tex. 149, 139 S.W.2d 784 (1940); Winston v. City of Richmond, 196 Va. 403, 83 S.E.2d 728 (1954).