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Enforcement in One Jurisdiction of Right to Compensation under Workmen's Compensation Act of Another Jurisdiction

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NOTES

ENFORCEMENT IN ONE JURISDICTION OF RIGHT TO COMPENSATION UNDER WORKMEN'S COMPENSATION ACT OF ANOTHER JURISDICTION

Since the introduction of workmen's compensation laws in this country, problems of conflict of laws have been rife. This condition has continued despite the universal adoption of such legislation, because the enactments of the various states differ. State legislatures have varied as to the bases of coverage written into their statutes. Frequently, the terms of more than one workmen's compensation law express coverage of a particular injury. Consequently, problems of the law applicable to a given injury have arisen in many cases and have been widely treated by legal writers.[1]

It is not the purpose of this Note to delve further into such problems. Rather, consideration is directed to the situation of the claimant who finds that the forum in which he most conveniently may press his claim is a jurisdiction whose workmen's compensation law affords him no right to compensation. To what extent will the courts or administrative agencies of the latter jurisdiction grant to the claimant affirmative enforcement of a right to compensation arising under an applicable law of another jurisdiction?[2] Stated differently, how true in the field of workmen's compensation law is the statement, regularly made of divorce proceedings,[3] that a court either will decide under

1. See HOROVITZ, WORKMEN'S COMPENSATION 34-42 (1944); 1 SCHNEIDER, WORKMEN'S COMPENSATION §§ 155-218 (3d ed. 1941); Dwan, *Workmen's Compensation and the Conflict of Laws*, 11 MINN. L. REV. 329, 332-45 (1927); Hall, *Extraterritorial Application of Workmen's Compensation Acts*, 13 CHI-KENT REV. 114 (1935); Note, 90 A.L.R. 119 (1934). For general discussion of the nature of the right to workmen's compensation, see GOODRICH, CONFLICT OF LAWS 281-85 (3d ed. 1949); HOROVITZ, *op. cit. supra*, at 34-35; STUMBERG, CONFLICT OF LAWS 212-22 (2d ed. 1951); RESTATEMENT, CONFLICT OF LAWS 485 (1934); Dwan, *Workmen's Compensation and the Conflict of Laws — The Restatement and Other Recent Developments*, 20 MINN. L. REV. 19, 21-33 (1935). See also 2 LARSON, WORKMEN'S COMPENSATION §§ 87.00-87.60 (1952).

2. Because the workmen's compensation laws of most jurisdictions are enforced by administrative agencies, this inquiry will consist to some extent of a determination of whether a right which is administratively enforced in the state creating it will be enforced in another state. This question is largely unique, because administrative agencies usually perform regulatory functions, acting upon the relationship between a government and its people. However, to the extent that administrative tribunals may be used to adjust disputes between private persons or associations, the remarks in this Note should have general applicability.

3. See GOODRICH, CONFLICT OF LAWS 397, 403 (3d ed. 1949); 3 NELSON, DIVORCE § 33.02 (2d ed. 1945); RESTATEMENT, CONFLICT OF LAWS § 135 (1934); Rheinstein, *Jurisdiction in Matters of Child Custody*, 26 CONN. B.J. 48, 69 (1952). Divorce law and workmen's compensation law are not completely analogous in this aspect. In many instances it has been said that workmen's compensation laws operate upon the status of employee-employer. See, *e.g.*,

its own law or will not decide at all?

A number of cases have granted affirmative enforcement of a right to compensation arising under the workmen's compensation law of a state other than the forum.[4] However, most of the decided cases have

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Ocean Acc. & Guarantee Corp. v. Industrial Comm'n, 32 Ariz. 275, 257 Pac. 644, 646 (1927). Of course, divorce law operates upon the marital status. However, the former statement is not true in the strict sense of the latter. In divorce proceedings, the question is whether the status must continue to exist in light of the past conduct of the parties. At least one of the parties is domiciled in the forum. See 2 NELSON, *op. cit. supra*, § 21.12. Thus, it is logical that the forum is going to apply no law but its own in determining whether the status of one who is there domiciled shall be dissolved; the place of occurrence of the events giving rise to the proceeding is immaterial. In workmen's compensation proceedings, quite unlike divorce, there is no question of dissolving the employee-employer status. Rather, an adjustment of that status is to be made by the granting of a monetary award. Nor is it necessary that the parties be domiciled in the forum. See Pacific Employers Ins. Co. v. Industrial Acc. Comm'n, 306 U.S. 493, 59 Sup. Ct. 629, 83 L. Ed. 940 (1939) (California workmen's compensation law applied to Massachusetts employee and Massachusetts employer). Therefore, the impelling reasons for applying the law of the forum that are found in divorce proceedings are not present in workmen's compensation cases. However, Professor Beale has taken the position that no workmen's compensation law should be affirmatively enforced in any state other than the home state. 2 BEALE, CONFLICT OF LAWS § 398.1 (1935).

4. Franzen v. E. I. DuPont De Nemours & Co., 146 F.2d 837 (3d Cir. 1944), *affirming* 36 F. Supp. 375 (D.N.J. 1941), 51 F. Supp. 578 (D.N.J. 1943); Texas Pipe Line Co. v. Ware, 15 F.2d 171 (8th Cir.), *cert. denied*, 273 U.S. 742 (1926); Stepp v. Employers' Liability Assur. Corp., 30 F. Supp. 558 (N.D. Tex. 1939); Lindberg v. Southern Casualty Co., 15 F.2d 54 (S.D. Tex. 1926), *aff'd sub nom.* United Dredging Co. v. Lindberg, 18 F.2d 453 (5th Cir.), *cert. denied*, 274 U.S. 759 (1927); Orleans Dredging Co. v. Frazie, 173 Miss. 882, 161 So. 699 (1935), *cert. denied*, 296 U.S. 653 (1936); Floyd v. Vicksburg Cooperage Co., 156 Miss. 567, 126 So. 395 (1930); Employers' Liability Assur. Corp. v. Warren, 172 Tenn. 403, 112 S.W.2d 837 (1938); *see* Ford, Bacon & Davis, Inc. v. Volentine, 64 F.2d 800, 801 (5th Cir. 1933) (limitation of action contained in Louisiana act barred action); Scott v. White Eagle Oil & Refining Co., 47 F.2d 615, 616 (D. Kan. 1930); Douthwright v. Champlin, 91 Conn. 524, 100 Atl. 97, Ann. Cas. 1917E, 512 (1917); Kennerson v. Thames Towboat Co., 89 Conn. 367, 94 Atl. 372, 378, L.R.A.1916A, 436 (1915); McArthur v. Maryland Casualty Co., 184 Miss. 663, 186 So. 305, 310, 120 A.L.R. 846 (1939) (dissenting opinion); Dunn Const. Co. v. Bourne, 172 Miss. 620, 159 So. 841, 842 (1935) (limitation of action contained in Louisiana act barred action); Louisville & N.R.R. v. Dixon, 168 Miss. 14, 150 So. 811, 812 (1933) (limitation of action contained in Louisiana act barred action); Travellers' Ins. Co. v. Inman, 167 Miss. 288, 138 So. 339, 340 (1931), *suggestion of error overruled*, 147 So. 663 (Miss. 1933).

It will be noted that many of the above cases arose in Mississippi. For good discussions of the Mississippi situation, see Notes, 12 Miss. L.J. 491 (1940), 13 Miss. L.J. 612 (1941).

The cases of Stepp v. Employers' Liability Assur. Corp., *supra*, and Lindberg v. Southern Casualty Co., *supra*, decided by federal courts in the state of Texas, are contrary to the holding of Johnson v. Employers' Liability Assur. Corp., 99 S.W.2d 979 (Tex. Civ. App. 1936), and to a dictum in Federal Underwriters Exchange v. Doyle, 110 S.W.2d 618, 619 (Tex. Civ. App. 1937), *opinion supplement on rehearing*, 111 S.W.2d 742 (Tex. Civ. App. 1938), both decided by an intermediate Texas court. Of this difference, it has been said: "Manifestly, the state courts of Texas could not fix a policy for the national courts sitting in Texas, even though national courts now operate under the rule declared in Erie Railway Co. v. Tompkins. . . ." Stepp v. Employers' Liability Assur. Corp., *supra*, 30 F. Supp. at 560. *See* Franzen v. E. I. DuPont De Nemours & Co., *supra*, 146 F.2d at 841. For a discussion of the place of the federal courts in this field, see Wallace, *Are Workmen's Compensation Cases Triable in Federal District Courts?* 7 LA. L. REV. 350 (1947).

denied such enforcement.[5] On the other hand, frequently the workmen's compensation law of a jurisdiction other than the forum has been recognized as a defense to an independent action in the forum.[6]

5. Elliott v. DeSoto Crude Oil Purchasing Co., 20 F. Supp. 743 (W.D. La. 1937); Martin v. Kennecott Copper Corp., 252 Fed. 207 (W.D. Wash. 1918); Logan v. Missouri Valley Bridge & Iron Co., 157 Ark. 528, 249 S.W. 21 (1923); Mosely v. Empire Gas & Fuel Co., 313 Mo. 225, 281 S.W. 762, 45 A.L.R. 1223 (1926); Harbis v. Cudahy Packing Co., 211 Mo. App. 188, 241 S.W. 960 (1921), *cert. quashed sub nom.* State *ex rel.* Harbis v. Trimble, 292 Mo. 333, 238 S.W. 809 (1922); Resigno v. F. Jarka Co., 221 App. Div. 214, 223 N.Y. Supp. 5 (1st Dep't 1927), *rev'd on other grounds*, 248 N.Y. 225, 162 N.E. 13 (1928); Verdicchio v. McNab & Harlin Mfg. Co., 178 App. Div. 48, 164 N.Y. Supp. 290 (1st Dep't 1917); McCarthy v. McAllister Steamboat Co., 94 Misc. 692, 158 N.Y. Supp. 563 (Sup. Ct. 1916); Lehmann v. Ramo Films, Inc., 92 Misc. 418, 155 N.Y. Supp. 1032 (Sup. Ct. 1915); Davis v. Swift & Co., 175 Tenn. 210, 133 S.W.2d 483 (1939); Johnson v. Employers' Liability Assur. Corp., 99 S.W.2d 979 (Tex. Civ. App. 1936); Grenier v. Alta Crest Farms, Inc., 115 Vt. 324, 58 A.2d 884 (1948); Davis v. P. E. Harris & Co., 25 Wash.2d 664, 171 P.2d 1016 (1946); *see* Franzen v. E. I. DuPont De Nemours & Co., 128 N.J.L. 549, 27 A.2d 615, 616 (Sup. Ct. 1942); Federal Underwriters Exchange v. Doyle, 110 S.W.2d 618, 619 (Tex. Civ. App. 1937), *opinion supplemented on rehearing*, 111 S.W.2d 742 (Tex. Civ. App. 1938). A number of the above cases are decisions of New York courts. There is language in the case of Barnhart v. American Concrete Steel Co., 227 N.Y. 531, 125 N.E. 675 (1920), which is subject to a contrary interpretation. For such an interpretation, see United Dredging Co. v. Lindberg, 18 F.2d 453, 455 (5th Cir.), *cert. denied*, 296 U.S. 653 (1927); Franzen v. E. I. DuPont De Nemours & Co., 36 F. Supp. 375, 377 (D.N.J. 1941), *aff'd*, 146 F.2d 837 (3d Cir. 1944).

6. See Bradford Elec. Light Co. v. Clapper, 286 U.S. 145, 52 Sup. Ct. 571, 76 L. Ed. 1026, 82 A.L.R. 696 (1932); Elliott v. DeSoto Crude Oil Purchasing Corp., 20 F. Supp. 743 (W.D. La. 1937); Scott v. White Eagle Oil & Refining Co., 47 F.2d 615 (D. Kan. 1930); Magnolia Petroleum Co. v. Turner, 188 Ark. 177, 65 S.W.2d 1 (1933); Biddy v. Blue Bird Air Serv., 374 Ill. 506, 30 N.E.2d 14 (1940), 12 AIR L. REV. 210 (1941); Cole v. Industrial Comm'n, 353 Ill. 415, 187 N.E. 520, 90 A.L.R. 116 (1933); Stacy v. Greenberg, 9 N.J. 390, 88 A.2d 619 (1952); Barnhart v. American Concrete Steel Co., 227 N.Y. 531, 125 N.E. 675 (1920); Albanese v. Stewart, 78 Misc. 581, 138 N.Y. Supp. 942 (Sup. Ct. 1912); Pendar v. H. & B. American Mach. Co., 35 R.I. 321, 87 Atl. 1 (1913); RESTATEMENT, CONFLICT OF LAWS § 401 (1934); *cf.* Sloan v. Appalachian Elec. Power Co., 27 F. Supp. 108 (S.D. W. Va. 1939); Osagera v. Schaff, 293 Mo. 333, 240 S.W. 124 (1922); Prdich v. New York Cent. R.R., 111 Misc. 430, 183 N.Y. Supp. 77 (Sup. Ct. 1920); Schweitzer v. Hamburg-Amerikanische Packetfahrt Actien Gesellschaft, 78 Misc. 448, 138 N.Y. Supp. 944 (Sup. Ct. 1912). *But cf.* Johnson v. Carolina, C. & O. Ry., 191 N.C. 75, 131 S.E. 390 (1926), 40 HARV. L. REV. 130.

To what extent does the requirement of full faith and credit bring about this result? In Bradford Elec. Light Co. v. Clapper, *supra*, a New Hampshire federal court was required to recognize the workmen's compensation law of Vermont as a defense to an action commenced in New Hampshire. However, the Court's language amounted to a limitation of the holding to the facts then before the Court. 286 U.S. at 163. Subsequent cases have seriously limited the effect of the *Bradford* case. See Pacific Employers Ins. Co. v. Industrial Acc. Comm'n, 306 U.S. 493, 59 Sup. Ct. 629, 83 L. Ed. 940 (1939), 39 COL. L. REV. 1024; Alaska Packers' Ass'n v. Industrial Acc. Comm'n, 294 U.S. 532, 55 Sup. Ct. 518, 79 L. Ed. 1044 (1935); *cf.* Ohio v. Chattanooga Boiler & Tank Co., 289 U.S. 439, 53 Sup. Ct. 663, 77 L. Ed. 1307 (1933). *But cf.* Cole v. Industrial Comm'n, 353 Ill. 415, 187 N.E. 520, 90 A.L.R. 116 (1933). In Pacific Employers Ins. Co. v. Industrial Acc. Comm'n, *supra*, the Court, on virtually the same facts as in the *Bradford* case, reached the opposite result, allowing California to apply its workmen's compensation act to the exclusion of the Massachusetts act, although the injured employee's major identification was with Massachusetts. It thus became clear that one state could apply its workmen's compensation law to the exclusion of that of another state if the former had any material — not necessarily the dominant — governmental interest in the matter. The holding in the *Bradford* case now is doubtful even as to its particular fact

Similarly, an award under the law of one state has been recognized as a bar to further action in another jurisdiction.[7]

The workmen's compensation laws of most states provide that the administration of the statute within the state of enactment shall be vested in a commission, board or commissioner.[8] A few states provide

situation. See 2 LARSON, WORKMEN'S COMPENSATION §§ 86.00 - 86.50 (1952); Notes, 5 VAND. L. REV. 203, 206 (1952), 26 VA. L. REV. 95 (1939). See also Beale, *Two Cases on Jurisdiction,* 48 HARV. L. REV. 620 (1935); Dwan, *Workmen's Compensation and the Conflict of Laws — The Restatement and Other Recent Developments,* 20 MINN. L. REV. 19, 33-41 (1935).

It has been held that an employer and employee can contract with express reference to the workmen's compensation law of a given state and that, thereafter, the law of such state is determinative of any right to compensation. Willingham v. Eastern Airlines, 199 F.2d 623 (2d Cir. 1952); *cf.* Duskin v. Pennsylvania-Cent. Airlines Corp., 167 F.2d 727, 730 (6th Cir.), *cert. denied,* 335 U.S. 829 (1948), 16 U. OF CHI. L. REV. 157. *But cf.* Alaska Packers' Ass'n v. Industrial Acc. Comm'n, 1 Cal.2d 250, 34 P.2d 716 (1934), *aff'd,* 294 U.S. 532 (1935) (California statute declared void any contract denying application of its workmen's compensation law). See 2 LARSON, WORKMEN'S COMPENSATION §§ 87.71 - 87.72 (1952).

7. See Magnolia Petroleum Co. v. Hunt, 320 U.S. 430, 64 Sup. Ct. 208, 88 L. Ed. 149, 150 A.L.R. 413 (1943); Black v. Stone & Webster Engineering Corp., 181 Misc. 854, 49 N.Y.S.2d 666 (Sup. Ct. 1943); Dwan, *Workmen's Compensation and the Conflict of Laws — The Restatement and Other Recent Developments,* 20 MINN. L. REV. 19, 41 (1935); *cf.* Willingham v. Eastern Airlines, 199 F.2d 623 (2d Cir. 1952). *But cf.* Industrial Comm'n v. McCartin, 330 U.S. 622, 67 Sup. Ct. 886, 91 L. Ed. 1140, 169 A.L.R. 1179 (1947), 47 COL. L. REV. 846, 60 HARV. L. REV. 993, 1 NACCA L.J. 29 (1948); Henriksen v. Crandic Stages, Inc., 216 Iowa 643, 246 N.W. 913 (1933); see RESTATEMENT, CONFLICT OF LAWS § 403 (1934).

Does full faith and credit require this result? In Magnolia Petroleum Co. v. Hunt, *supra,* an award under the Texas act was held to bar subsequent action under the Louisiana act. The Texas act provided that its remedy was exclusive and that an award under it was entitled to the same full faith and credit as the judgment of a court. See Cheatham, *Res Judicata and the Full Faith and Credit Clause: Magnolia Petroleum Co. v. Hunt,* 44 COL. L. REV. 330 (1944). In Industrial Comm'n v. McCartin, *supra,* where the Illinois act had been interpreted as being exclusive of other remedies in Illinois only, and where the settlement approved by the appropriate Illinois administrative agency had reserved the claimant's rights under Wisconsin law, it was held that a subsequent award under the Wisconsin act was not barred. This decision would seem to circumscribe the practical effect of Magnolia Petroleum Co. v. Hunt, *supra.* See 2 LARSON, WORKMEN'S COMPENSATION §§ 85.00 - 85.70 (1952); Abel, *Administrative Determinations and Full Faith and Credit,* 22 IOWA L. REV. 461, 481-524 (1937); Dwan, *Workmen's Compensation and the Conflict of Laws,* 11 MINN. L. REV. 329 (1927); Reese and Johnson, *The Scope of Full Faith and Credit to Judgments,* 49 COL. L. REV. 153, 158-63, 176-77 (1949). *But cf.* Willingham v. Eastern Airlines, *supra. See* United States Cas. Co. v. Standard Acc. Ins. Co., 175 Tenn. 559, 562, 136 S.W.2d 504, 505, 126 A.L.R. 876 (1940).

Does full faith and credit require enforcement in one jurisdiction of a workmen's compensation award of another jurisdiction? It would seem that it does, provided the forum has judicial machinery capable of enforcing the award. *Cf.* Kenney v. Supreme Lodge of the World, Loyal Order of Moose, 252 U.S. 411, 40 Sup. Ct. 371, 64 L. Ed. 638, 10 A.L.R. 716 (1920); *see* United States Cas. Co. v. Standard Acc. Ins. Co., *supra,* 136 S.W.2d at 505; see RESTATEMENT, CONFLICT OF LAWS § 486 (1934); Abel, *supra,* at 481-524; Dwan, *Workmen's Compensation and the Conflict of Laws — The Restatement and Other Recent Developments,* 20 MINN. L. REV. 19, 21 (1935).

8. See, *e.g.,* ARK. STAT. ANN. § 1343 (Supp. 1951) (commission); IND. ANN. STAT. § 40-1509 (Burns 1952) (board); IOWA CODE ANN. c. 86, § 86.8 (1949) (commissioner); MASS. ANN. LAWS c. 152, § 8 (1949) (department); NEB. REV. STAT. § 48-161 (1943) (workmen's compensation court). The sections cited are illustrative of the vesting of the power in the particular administrative

for administration by the regularly established courts of the state,[9] but even here the proceeding often is summary in nature.[10] At least one state affords the claimant a choice between administrative determination and judicial determination.[11] Generally, it will be found that, where a claim under a workmen's compensation law is enforced in a forum other than the home state, such law provides for court enforcement.[12] It does not follow that claims under court-administered laws always will be enforced by another jurisdiction; a few decisions have denied such enforcement.[13] Nor does it follow that a workmen's compensation law providing for administration in the home state by an administrative body necessarily will be denied enforcement in a sister jurisdiction; at least one court has granted such enforcement,[14] and it is possible that such a statute might be enforced by an admin-

tribunal. See also GOODRICH, CONFLICT OF LAWS 289 (3d ed. 1949); Dunlap, *The Conflict of Laws and Workmen's Compensation,* 23 CALIF. L. REV. 381, 394 (1935); Reese and Johnson, *The Scope of Full Faith and Credit to Judgments,* 49 COL. L. REV. 153, 176 (1949); Note, 57 HARV. L. REV. 242, 246 (1943).

9. ALA. CODE ANN. tit. 26, § 297 (1940); LA. GEN. STAT. ANN. § 4408 (1939); N.M. STAT. ANN. § 57-913 (1941), amended in part by N.M. STAT. ANN. § 57-913 (Supp. 1951); TENN. CODE ANN. § 6885 (Williams Supp. 1952); WYO. COMP. STAT. ANN. § 72-170 (Supp. 1951). The sections cited are illustrative of the vesting of the power in the courts. See Reese and Johnson, *The Scope of Full Faith and Credit to Judgments,* 49 COL. L. REV. 153, 176 n.85 (1949); Note, 12 MISS. L.J. 491, 497 (1940).

10. See, *e.g.,* ALA. CODE tit. 26, § 297 (1940); LA. GEN. STAT. ANN. § 4408 (1939).

11. N.H. Pub. Acts 1949, c. 277, § 1.

12. See Franzen v. E. I. DuPont DeNemours & Co., 146 F.2d 837 (3d Cir. 1944), *affirming* 36 F. Supp. 375 (D.N.J. 1941), 51 F. Supp. 578 (D.N.J. 1943); Texas Pipe Line Co. v. Ware, 15 F.2d 171 (8th Cir.), *cert. denied,* 273 U.S. 742 (1926); Stepp v. Employers' Liability Assur. Corp., 30 F. Supp. 558 (N.D. Tex. 1939); Lindberg v. Southern Casualty Co., 15 F.2d 54 (S.D. Tex. 1926), *aff'd sub nom.* United Dredging Co. v. Lindberg, 18 F.2d 453 (5th Cir.), *cert. denied,* 274 U.S. 759 (1927); Floyd v. Vicksburg Cooperage Co., 156 Miss. 567, 126 So. 395 (1930); 2 LARSON, WORKMEN'S COMPENSATION § 84.20 (1952); STUMBERG, CONFLICT OF LAWS 223 (2d ed. 1951); Dunlap, *The Conflict of Laws and Workmen's Compensation,* 23 CALIF. L. REV. 381, 395 (1935); Dwan, *Workmen's Compensation and the Conflict of Laws — The Restatement and Other Recent Developments,* 20 MINN. L. REV. 19, 20 (1935); Note, 57 HARV. L. REV. 242, 246 (1943); *cf.* Esteves v. Lykes Bros. S.S. Co., 74 F.2d 364 (5th Cir. 1934), *cert. denied,* 295 U.S. 751 (1935).

13. Martin v. Kennecott Copper Corp., 252 Fed. 207 (W.D. Wash. 1918); Mosely v. Empire Gas & Fuel Co., 313 Mo. 225, 281 S.W. 762, 45 A.L.R. 1223 (1926); Verdicchio v. McNab & Harlin Mfg. Co., 178 App. Div. 48, 164 N.Y. Supp. 290 (1st Dep't 1917); Lehmann v. Ramo Films, Inc., 92 Misc. 418, 155 N.Y. Supp. 1032 (Sup. Ct. 1915); Johnson v. Employers' Liability Assur. Corp., 99 S.W.2d 979 (Tex. Civ. App. 1936); *see* Federal Underwriters Exchange v. Doyle, 110 S.W.2d 618, 619 (Tex. Civ. App. 1937), *opinion supplemented on rehearing,* 111 S.W.2d 742 (Tex. Civ. App. 1938).

14. Employers' Liability Assur. Corp. v. Warren, 172 Tenn. 403, 112 S.W.2d 837 (1938). It should be noted of this case that the question of jurisdiction was not raised in the lower court. However, the court indicated by way of dictum that jurisdiction would be assumed if adequate enforcement machinery were available. 112 S.W.2d at 842. The case is commented on in the subsequent Tennessee case of Davis v. Swift & Co., 175 Tenn. 210, 133 S.W.2d 483 (1939), where the court declined to enforce a right arising under the administratively enforced workmen's compensation law of Florida. See Notes, 12 MISS. L.J. 491, 497 (1940), 13 MISS. L.J. 612, 615 (1941).

istrative agency of the forum.[15]

Where the courts of one jurisdiction have affirmatively enforced the workmen's compensation law of another state, it has been said by some cases to be done because rights created by the statutes of one state may be pursued in the courts of another state.[16] Other cases, perhaps intending to enunciate the same principle, have spoken in terms of comity.[17] Still others have granted such enforcement on the ground that the claimant had a contract right against the employer, that the contract embodied the pertinent workmen's compensation law, and that the contract was enforceable wherever the claimant could obtain service of the defendant.[18] It should be noted in passing

15. See Dwan, *Workmen's Compensation and the Conflict of Laws — The Restatement and Other Recent Developments*, 20 MINN. L. REV. 19, 20 (1935); Reese and Johnson, *The Scope of Full Faith and Credit to Judgments*, 49 COL. L. REV. 153, 176 (1949). But see Rheinstein, *Jurisdiction in Matters of Child Custody*, 26 CONN. B.J. 48, 69 (1952). Some statutes expressly authorize such enforcement of the workmen's compensation laws of foreign states. ARIZ. CODE ANN. § 56-943 (1939), Ocean Acc. & Guarantee Corp. v. Industrial Comm'n, 32 Ariz. 275, 257 Pac. 644, 647 (1927), 1 So. CALIF. L. REV. 274 (1928); HAWAII REV. LAWS § 4407 (1945); IDAHO CODE ANN. tit. 72, § 615 (1949), Johnson v. Falen, 65 Idaho 542, 149 P.2d 228 (1944); VT. REV. STAT. § 8074 (1947), Grenier v. Alta Crest Farms, Inc., 115 Vt. 324, 58 A.2d 884 (1948). At one time, Utah had a similar statute. See Fay v. Industrial Comm'n, 100 Utah 542, 114 P.2d 508, 510 (1941); Buckingham Transp. Co. v. Industrial Comm'n, 93 Utah 342, 72 P.2d 1077, 1083 (1937). See also Note, 57 HARV. L. REV. 242 (1943). A letter from the Industrial Accident Board of Idaho has indicated that the application of IDAHO CODE ANN. tit. 72, § 615 (1949) in the matter under consideration has been primarily a matter of academic interest in that state. Similarly, a letter from the Industrial Commission of Arizona has indicated that no Arizona case is directly in point on this aspect of ARIZ. CODE ANN. § 56-943 (1939), but that relative to it the Commission is guided primarily by Magnolia Petroleum Co. v. Hunt, 320 U.S. 430, 64 Sup. Ct. 208, 88 L. Ed. 149, 150 A.L.R. 413 (1943). The *Magnolia Petroleum Co.* case is discussed in note 7 *supra*.

16. *E.g.*, Texas Pipe Line Co. v. Ware, 15 F.2d 171 (8th Cir.), *cert. denied*, 273 U.S. 742 (1926). There have been suggestions that full faith and credit will require affirmative enforcement of rights arising under the workmen's compensation law of a foreign state. *See, e.g.*, Stepp v. Employers' Liability Assur. Corp., 30 F. Supp. 558, 560 (N.D. Tex. 1939); Orleans Dredging Co. v. Frazie, 173 Miss. 882, 161 So. 699, 702 (1935), *cert. denied*, 296 U.S. 653 (1936); Note, 12 MISS. L.J. 491, 493 (1940). However, because of the unusual type of administration usually found in workmen's compensation cases, it would seem that the determination of the advisability of such enforcement should be left to the courts of the forum. *See* Bradford Elec. Light Co. v. Clapper, 286 U.S. 145, 160, 52 Sup. Ct. 571, 76 L. Ed. 1026, 82 A.L.R. 696 (1932).

17. See, *e.g.*, Floyd v. Vicksburg Cooperage Co., 156 Miss. 567, 126 So. 395 (1930); Pensabene v. F. & J. Auditore Co., 138 N.Y. Supp. 947 (Sup. Ct. 1912), *rev'd on other grounds*, 155 App. Div. 368, 140 N.Y. Supp. 266 (2d Dep't 1913); Note, 45 A.L.R. 1234 (1926); *cf.* Stacy v. Greenberg, 9 N.J. 390, 88 A.2d 619 (1952); *see* Bradford Elec. Light Co. v. Clapper, 286 U.S. 145, 163, 52 Sup. Ct. 571, 76 L. Ed. 1026, 82 A.L.R. 696 (1932) (concurring opinion). But see GOODRICH, CONFLICT OF LAWS § 11 (3d ed. 1949); RESTATEMENT, CONFLICT OF LAWS § 6, comment *a* (1934).

18. Lindberg v. Southern Casualty Co., 15 F.2d 54 (S.D. Tex. 1926), *aff'd sub nom.* United Dredging Co. v. Lindberg, 18 F.2d 453 (5th Cir.), *cert. denied*, 274 U.S. 759 (1927); Orleans Dredging Co. v. Frazie, 173 Miss. 882, 161 So. 699 (1935), *cert. denied*, 296 U.S. 653 (1936); cf. Biddy v. Blue Bird Air Serv., 374 Ill. 506, 30 N.E.2d 14 (1940), 12 AIR L. REV. 210 (1941); *see* Scott v. White Eagle Oil & Refining Co., 47 F.2d 615, 616 (D. Kan. 1930); Douthwright v. Champlin, 91 Conn. 524, 100 Atl. 97, Ann. Cas. 1917E, 512 (1917); Barnhart v.

that a few jurisdictions now have statutes which provide for the enforcement, where practicable, in the courts or administrative tribunals of the state of rights to workmen's compensation arising under the laws of other states.[19] For the purpose of this Note, however, the important problem is not the reason given by a court in granting affirmative enforcement, but the reasoning of a court which refuses such enforcement. It would seem that a right to workmen's compensation, like most other rights and duties between private parties involving monetary awards, would be presumptively enforceable in any state where jurisdiction of the parties could be obtained. Some courts apparently have proceeded on this thesis, not concerning themselves with a definition of their jurisdiction.[20] For what reasons, then, has this right been denied in the majority of the cases in which the question has arisen?

One reason more frequently asserted than sustained is that the workmen's compensation law sought to be enforced is violative of the public policy of the forum. While it is true that the courts of a state will not enforce rights involving statutes of another state which violate the public policy of the forum,[21] rarely will the legislature of one state enact a provision so extreme in any manner that it can be said to violate the public policy of a sister state.[22] Thus, when it was asserted that the workmen's compensation law of New Jersey must be held to violate the public policy of New York because a similar enactment of the New York legislature had been held unconstitutional, the argument was rejected.[23] Similarly, when it was contended that the workmen's compensation law of Louisiana was contrary to the public policy of Mississippi because the legislature of Mississippi re-

American Concrete Steel Co., 227 N.Y. 531, 125 N.E. 675, 676 (1920); Gooding v. Ott, 77 W. Va. 487, 87 S.E. 862, 864, L.R.A.1916D, 637 (1916).

19. See note 15 *supra.*

20. See, *e.g.*, Franzen v. E. I. DePont De Nemours & Co., 146 F.2d 837 (3d Cir. 1944), *affirming* 36 F. Supp. 375 (D.N.J. 1941), 51 F. Supp. 578 (D.N.J. 1943).

21. RESTATEMENT, CONFLICT OF LAWS § 612 (1934); *cf.* Pacific Employers Ins. Co. v. Industrial Acc. Comm'n, 306 U.S. 493, 59 Sup. Ct. 629, 83 L. Ed. 940 (1939); Bothwell v. Buckbee, Mears Co., 275 U.S. 274, 278, 48 Sup. Ct. 124, 72 L. Ed. 277 (1927); *see* Bradford Elec. Light Co. v. Clapper, 286 U.S. 145, 160, 52 Sup. Ct. 571, 76 L. Ed. 1026, 82 A.L.R. 696 (1932); Esteves v. Lykes Bros. S.S. Co., 74 F.2d 364, 367 (5th Cir. 1934), *cert. denied,* 295 U.S. 751 (1935); Stepp v. Employers' Liability Assur. Corp., 30 F. Supp. 558, 560 (N.D. Tex. 1939); Kennerson v. Thames Towboat Co., 89 Conn. 367, 94 Atl. 372, 378, L.R.A.1916A, 436 (1915); see Note, 45 A.L.R. 1234 (1926).

22. See GOODRICH, CONFLICT OF LAWS 276 (3d ed. 1949); RESTATEMENT, CONFLICT OF LAWS § 612, comment c (1934).

23. Pensabene v. F. & J. Auditore Co., 78 Misc. 538, 138 N.Y. Supp. 947 (Sup. Ct. 1912), *rev'd on other grounds,* 155 App. Div. 368, 140 N.Y. Supp. 266 (2d Dep't 1913); *cf.* Wasilewski v. Warner Sugar Refining Co., 87 Misc. 156, 149 N.Y. Supp. 1035 (N.Y. City Ct. 1914); Schweitzer v. Hamburg-Amerikanische Packetfahrt Actien Gesellschaft, 78 Misc. 448, 138 N.Y. Supp. 944 (Sup. Ct. 1912); Albanese v. Stewart, 78 Misc. 581, 138 N.Y. Supp. 942 (Sup. Ct. 1912). In Stacy v. Greenberg, 9 N.J. 390, 88 A.2d 619 (1952), it was held that the New York act did not violate the public policy of New Jersey.

peatedly had refused to enact comparable legislation, the argument failed.[24] On the other hand, although not holding the Louisiana law violative of the public policy of the forum, the Court of Civil Appeals of Texas refused to adjudicate rights under the Louisiana law on grounds which would seem to amount to the assertion of a public policy.[25]

Occasionally, a court has refused to enforce a right to compensation arising under the law of another state on the ground that the law of the latter state provided that the right should not be enforced outside the jurisdiction of the enacting state.[26] Discussion of the validity of such a statutory provision will be deferred until a later portion of this Note.

By far the most frequently stated and most valid reason for refusing affirmative enforcement of the workmen's compensation law of another jurisdiction is the lack of machinery in the forum appropriate to afford such enforcement.[27] Of course this reason for declining to entertain an action is not limited to workmen's compensation cases.[28] It is, in fact, a valid basis upon which to invoke the doctrine of *forum non conveniens*,[29] although the courts have not sought the aid of Latin

24. Floyd v. Vicksburg Cooperage Co., 156 Miss. 567, 126 So. 395 (1930); see Note, 12 MISS. L.J. 491, 498 (1940).

25. "[I]f the Texas courts assume to adjudicate the rights of parties under the Louisiana . . . Act, we will offer an invitation to all injured employees who prefer to resort to our courts where the rules of procedure are more certainly fixed, the trial by jury secured, and where they can secure a final judgment immediately enforceable by execution; thereby securing valuable rights not accorded them by the law of Louisiana." Johnson v. Employers' Liability Assur. Corp., 99 S.W.2d 979, 984 (Tex. Civ. App. 1936).

26. Martin v. Kennecott Copper Corp., 252 Fed. 207 (W.D. Wash. 1918); Harbis v. Cudahy Packing Co., 211 Mo. App. 188, 241 S.W. 960 (1921), *cert. quashed sub nom.* State *ex rel.* Harbis v. Trimble, 292 Mo. 333, 238 S.W. 809 (1922); Grenier v. Alta Crest Farms, Inc., 115 Vt. 324, 58 A.2d 884 (1948); *cf.* Barnhart v. American Concrete Steel Co., 227 N.Y. 531, 125 N.E. 675 (1920) *semble;* McCarthy v. McAllister Steamboat Co., 94 Misc. 692, 158 N.Y. Supp. 563 (Sup. Ct. 1916); Lehmann v. Ramo Films, Inc., 92 Misc. 418, 155 N.Y. Supp. 1032 (Sup. Ct. 1915); *see* Alaska Packers' Ass'n v. Industrial Acc. Comm'n, 1 Cal.2d 250, 34 P.2d 716, 718 (1934), *aff'd*, 294 U.S. 532 (1935); Esteves v. Lykes Bros. S.S. Co., 74 F.2d 364, 367 (5th Cir. 1934), *cert. denied*, 295 U.S. 751 (1935).

27. Logan v. Missouri Valley Bridge & Iron Co., 157 Ark. 528, 249 S.W. 21 (1923); Mosely v. Empire Gas & Fuel Co., 313 Mo. 225, 281 S.W. 762, 45 A.L.R. 1223 (1926); Davis v. Swift & Co., 175 Tenn. 210, 133 S.W.2d 483 (1939); Johnson v. Employers' Liability Assur. Corp., 99 S.W.2d 979 (Tex. Civ. App. 1936); *see* Kennerson v. Thames Towboat Co., 89 Conn. 367, 94 Atl. 372, 378, L.R.A.1916A, 436 (1915); Employers' Liability Assur. Corp. v. Warren, 172 Tenn. 403, 416, 112 S.W.2d 837, 842 (1938); see GOODRICH, CONFLICT OF LAWS 289 (3d ed. 1949); RESTATEMENT, CONFLICT OF LAWS 485 (1934); Dunlap, *The Conflict of Laws and Workmen's Compensation*, 23 CALIF. L. REV. 381, 395 (1935); Notes, 45 A.L.R. 1234 (1926), 25 MICH. L. REV. 663 (1927).

28. See Slater v. Mexican Nat. R.R., 194 U.S. 120, 24 Sup. Ct. 581, 48 L. Ed. 900 (1904). In this action for wrongful death under Mexican law, the Court held that jurisdiction should not have been entertained. It is interesting to note that the Mexican law provided for periodic payments to the beneficiaries and for changes in such payments according to the changed circumstances of the beneficiaries, a form of relief not unlike that afforded by most workmen's compensation laws. See also GOODRICH, CONFLICT OF LAWS 272 (3d ed. 1949).

29. See STUMBERG, CONFLICT OF LAWS 169 n.98 (2d ed. 1951); Blair, *The*

terminology in workmen's compensation cases. As has been noted, most workmen's compensation laws provide for administrative enforcement of rights to compensation arising thereunder, and, where judicial enforcement is provided, the proceeding often is summary in nature. Where a court is called upon to administer the court-enforced workmen's compensation law of another state, it frequently is true that that statute will have granted to the courts of the home state certain powers which will not be possessed by the courts of the forum. Such a difference of powers has been used as a basis for refusing to enforce the foreign workmen's compensation law.[30] However, the better view would appear to be that the court of the forum will grant the claim if able to mold its judgment or decree so that it reasonably approximates the relief provided in the statute being enforced.[31] This is especially true in light of the fact that the simplified procedures in the courts of the home state generally are provided to aid the person who necessarily would be the one to seek the aid of the courts of another jurisdiction — namely, the injured employee or his dependent.

With regard to administratively enforced workmen's compensation laws, the situation is somewhat different. As is usual with proceedings before administrative agencies or administrators, the procedure under these statutes differs greatly from the traditional procedure before a judicial tribunal, and often the form of relief available is equally different.[32] Under such circumstances, it generally could not be expected that the courts of another jurisdiction would enforce the right to compensation.[33] Could the right be enforced in that administrative

Doctrine of Forum Non Conveniens in Anglo-American Law, 29 COL. L. REV. 1, 27-29 (1929). See generally Dainow, *The Inappropriate Forum*, 29 ILL. L. REV. 867 (1935).

30. Mosely v. Empire Gas & Fuel Co., 313 Mo. 225, 281 S.W. 762, 45 A.L.R. 1223 (1926); Johnson v. Employers' Liability Assur. Corp., 99 S.W.2d 979 (Tex. Civ. App. 1936); cf. Slater v. Mexican Nat. R.R., 194 U.S. 120, 24 Sup. Ct. 581, 48 L. Ed. 900 (1904).

31. See Texas Pipe Line Co. v. Ware, 15 F.2d 171 (8th Cir.), *cert. denied*, 273 U.S. 742 (1926); Dwan, *Workmen's Compensation and the Conflict of Laws — The Restatement and Other Recent Developments*, 20 MINN. L. REV. 19, 20 (1935); Reese and Johnson, *The Scope of Full Faith and Credit to Judgments*, 49 COL. L. REV. 153, 176 n.85 (1949). "As inconvenient as a constant tinkering with a final judgment would be, as contemplated by the New Mexico statute, such an obstacle is not 'insuperable.'" Stepp v. Employers' Liability Assur. Corp., 30 F. Supp. 558, 560 (N.D. Tex. 1939). "[T]he court, having jurisdiction of the parties, applies the remedies of the forum as nearly as practically possible to the rights existing under the foreign law. It is not necessary that the remedy shall be identical with that of the foreign jurisdiction . . . for, if entire similarity were required in these respects, the rule of comity could have but little practical application." Floyd v. Vicksburg Cooperage Co., 156 Miss. 567, 126 So. 395, 398 (1930). *See* Douthwright v. Champlin, 91 Conn. 524, 100 Atl. 97, Ann. Cas. 1917E, 512 (1917).

32. See Dunlap, *The Conflict of Laws and Workmen's Compensation*, 23 CALIF. L. REV. 381, 394 (1935); Note, 57 HARV. L. REV. 242, 246 (1943).

33. See Logan v. Missouri Valley Bridge & Iron Co., 157 Ark. 528, 249 S.W. 21 (1923); GOODRICH, CONFLICT OF LAWS 289 (3d ed. 1949); STUMBERG, CONFLICT OF LAWS 223 (2d ed. 1951); RESTATEMENT, CONFLICT OF LAWS 485 (1934); Dunlap, *The Conflict of Laws and Workmen's Compensation*, 23 CALIF. L. REV.

tribunal of the forum which is charged with administration of its own workmen's compensation law? One authority has stated that such enforcement is at least conceivable,[34] while another writer has stated that a claim to workmen's compensation will be decided by the administrative agency under the forum's own law or not at all.[35] The latter statement is open to criticism at least to the extent that it overlooks statutes in a few jurisdictions which confer upon administrative tribunals of the state the power to enforce rights to workmen's compensation arising under the laws of other states to the extent that such administrative bodies can practicably deal with the rights.[36]

As a final reason for denying affirmative enforcement to rights accruing under the workmen's compensation law of another state, it frequently has been stated that a right to workmen's compensation cannot be enforced in other than the creating state if the right created and the remedy provided are inseparable.[37] While this language properly has been used to express an effective limitation upon the maintenance of a cause of action outside the state creating that action,[38] it is submitted that, when used in the type of case now under consideration, such phraseology does not express the true reason for a court's refusal to enforce a right accruing under the workmen's compensation law of another jurisdiction. Generally, the court is simply using this means to say that the machinery of the forum is inadequate to enforce the right, for the courts often speak of inseparability of right and remedy and of inadequacy of machinery in the same breath.[39] Sometimes the real basis of the court's holding is that the claimant has contracted away his right to bring his action in any but the home state;[40] however,

381, 395 (1935). But see Notes, 12 MISS. L.J. 491, 497 (1940), 13 MISS. L.J. 612, 615 (1941).

34. Dwan, *Workmen's Compensation and the Conflict of Laws — The Restatement and Other Recent Developments*, 20 MINN. L. REV. 19, 20 (1935).

35. Rheinstein, *Jurisdiction in Matters of Child Custody*, 26 CONN. B.J. 48, 69 (1952).

36. See note 15 *supra*.

37. See Mosely v. Empire Gas & Fuel Co., 313 Mo. 225, 281 S.W. 762, 45 A.L.R. 1223 (1926); Verdicchio v. McNab & Harlin Mfg. Co., 178 App. Div. 48, 164 N.Y. Supp. 290 (1st Dep't 1917); Davis v. Swift & Co., 175 Tenn. 210, 133 S.W.2d 483 (1939); Grenier v. Alta Crest Farms, Inc., 115 Vt. 324, 58 A.2d 884 (1948) (alternate holding); GOODRICH, CONFLICT OF LAWS 289, 289 n.95 (3d ed. 1949); *see* Douthwright v. Champlin, 91 Conn. 524, 100 Atl. 97, Ann. Cas. 1917E, 512 (1917).

38. See GOODRICH, CONFLICT OF LAWS 269 (3d ed. 1949); *cf.* Galveston, H. & S.A. Ry. v. Wallace, 223 U.S. 481, 490, 32 Sup. Ct. 205, 56 L. Ed. 516 (1912).

39. See Texas Pipe Line Co. v. Ware, 15 F.2d 171 (8th Cir.), *cert. denied*, 273 U.S. 742 (1926); Mosely v. Empire Gas & Fuel Co., 313 Mo. 225, 281 S.W. 762, 45 A.L.R. 1223 (1926); Davis v. Swift & Co., 175 Tenn. 210, 133 S.W.2d 483 (1939); *cf.* Floyd v. Vicksburg Cooperage Co., 156 Miss. 567, 126 So. 395, 398 (1930); *see* Douthwright v. Champlin, 91 Conn. 524, 100 Atl. 97, Ann. Cas. 1917E, 512 (1917).

40. See Verdicchio v. McNab & Harlin Mfg. Co., 178 App. Div. 48, 164 N.Y. Supp. 290 (1st Dep't 1917); Grenier v. Alta Crest Farms, Inc., 115 Vt. 324, 58 A.2d 884 (1948); *cf.* Davis v. P. E. Harris & Co., 25 Wash.2d 664, 171 P.2d 1016 (1946).

it would seem arguable that the public policy of the forum would not allow the jurisdiction of its courts to be excluded by a contract of this nature,[41] especially where the parties "contract" simply because they fail to elect not to be covered by a particular workmen's compensation law. Further, it is possible that a court, by using such language, actually is saying that the workmen's compensation law under consideration should be interpreted to preclude maintenance of a claim arising thereunder outside of the creating state.

To what extent can a legislature, either expressly or implicitly, prohibit the enforcement in a forum other than the home state of rights accruing under its workmen's compensation law? A legislature cannot create a transitory cause of action and prevent its enforcement in other jurisdictions.[42] To the extent that workmen's compensation laws create transitory causes of action, their enforcement cannot be limited to the state of enactment.[43] The usual workmen's compensation law of the present day does not include an express limitation of this type,[44] but the so-called "exclusive-remedy" statute might be interpreted to contain an implicit limitation to such effect.[45] Assuming that the law created a transitory cause of action, such an interpretation would seem to read into the statute a provision which would be invalid.

However, if the workmen's compensation law which contains such a provision is one which permits the employee to elect whether or not to be covered by it, it can be argued that the employee, by his election to come within the coverage of the law, contracts with his employer that he will abide by all of the provisions of the law, including the requirement written or read into the law that no action under it is to be

41. *Cf.* Pacific Employers Ins. Co. v. Industrial Acc. Comm'n, 306 U.S. 493, 59 Sup. Ct. 629, 83 L. Ed. 940 (1939), 39 COL. L. REV. 1024. The question may be merely academic. If the forum has sufficient interest in the claimant that its public policy requires that he not be denied access to its courts in this way, it probably has sufficient governmental interest to apply its own workmen's compensation law if any reasonable basis for such application can be found. This was true in Pacific Employers Ins. Co. v. Industrial Acc. Comm'n, *supra.*

42. Tennessee Coal, Iron & R.R. v. George, 233 U.S. 354, 34 Sup. Ct. 587, 58 L. Ed. 997 (1914); Atchison, T. & S.F. Ry. v. Sowers, 213 U.S. 55, 29 Sup. Ct. 397, 53 L. Ed. 695 (1909); Slaton v. Hall, 172 Ga. 675, 158 S.E. 747 (1931), *appeal dismissed sub nom.* Clemmons v. Hall, 284 U.S. 691 (1931); *cf.* Dennick v. Railroad Co., 103 U.S. 11, 26 L. Ed. 439 (1880).

43. *See* Texas Pipe Line Co. v. Ware, 15 F.2d 171, 172 (8th Cir.), *cert. denied,* 273 U.S. 742 (1926); Douthwright v. Champlin, 91 Conn. 524, 100 Atl. 97, Ann. Cas. 1917E, 512 (1917); Floyd v. Vicksburg Cooperage Co., 156 Miss. 567, 126 So. 395, 398 (1930); Mosely v. Empire Gas & Fuel Co., 313 Mo. 225, 281 S.W. 762, 765, 45 A.L.R. 1223 (1926); see GOODRICH, CONFLICT OF LAWS 289 (3d ed. 1949); Dunlap, *The Conflict of Laws and Workmen's Compensation,* 23 CALIF. L. REV. 381, 395 n.60 (1935); Dwan, *Workmen's Compensation and the Conflict of Laws,* 11 MINN. L. REV. 329, 331 (1927); Note, 12 MISS. L.J. 491, 495 (1940).

44. But see the discussion of the Alaska act in Dunlap, *The Conflict of Laws and Workmen's Compensation,* 23 CALIF. L. REV. 381, 395 n.60 (1935); see also Martin v. Kennecott Copper Corp., 252 Fed. 207 (W.D. Wash. 1918).

45. See Lehmann v. Ramo Films, Inc., 92 Misc. 418, 155 N.Y. Supp. 1032 (Sup. Ct. 1915) (New Jersey law); Grenier v. Alta Crest Farms, Inc., 115 Vt. 324, 58 A.2d 884 (1948) (Massachusetts law).

brought outside the home state.[46] Again, it is possible that such a limitation might run afoul of the public policy of the forum.[47]

If the legislature writes into the workmen's compensation law a remedy for which enforcement machinery will not be available in other states — that is, creates a local action — it generally will have the effect of limiting enforcement of claims arising thereunder to the home state.[48] This conclusion follows naturally from the earlier discussion of the cases concerned with the availability in the forum of adequate enforcement machinery. However, the remedy created probably would have to be unique if it were to foil the effect of those few statutes which confer upon the administrative tribunals of the forum power to enforce rights arising under the workmen's compensation laws of other states. On the other hand, where, as suggested in the preceding paragraph, the claimant can be held to have contracted away his right to pursue his claim in other than the creating state, the effect of such a statute has been held to be nullified.[49]

In conclusion, it appears that the primary test of the right to have a claim to compensation under the law of one state enforced in another state is one of availability in the latter jurisdiction of machinery capable of providing a remedy reasonably approximating that created by the applicable workmen's compensation law.[50] It follows from this test that the fact that a court has refused to enforce the workmen's compensation law of one state does not mean that it will refuse to enforce the law of a different state, especially if the law of the latter state provides for administration by the courts, for the question of availability of machinery will have to be considered anew in each case. The question of available machinery has been limited in the reported cases to judicial machinery, because it is generally true that only court-administered workmen's compensation laws are afforded affirmative enforcement in jurisdictions other than the home state. As administrative bodies are creatures of the legislature, having only such powers

46. Harbis v. Cudahy Packing Co., 211 Mo. App. 188, 241 S.W. 960 (1921), *cert. quashed sub nom.* State *ex rel.* Harbis v. Trimble, 292 Mo. 333, 238 S.W. 809 (1922) *semble;* Verdicchio v. McNab & Harlin Mfg. Co., 178 App. Div. 48, 164 N.Y. Supp. 290 (1st Dep't 1917); Grenier v. Alta Crest Farms, Inc., 115 Vt. 324, 58 A.2d 884 (1948); Davis v. P. E. Harris & Co., 25 Wash.2d 664, 171 P.2d 1016 (1946); *see* Mosely v. Empire Gas & Fuel Co., 313 Mo. 225, 281 S.W. 762, 765, 45 A.L.R. 1223 (1926).

47. See note 41 *supra.*

48. See Logan v. Missouri Valley Bridge & Iron Co., 157 Ark. 528, 249 S.W. 21 (1923); Johnson v. Employers' Liability Assur. Corp., 99 S.W.2d 979 (Tex. Civ. App. 1936); GOODRICH, CONFLICT OF LAWS 289 (3d ed. 1949); Dunlap, *The Conflict of Laws and Workmen's Compensation,* 23 CALIF. L. REV. 381, 394 (1935); *see* Floyd v. Vicksburg Cooperage Co., 156 Miss. 567, 126 So. 395, 398 (1930).

49. Grenier v. Alta Crest Farms, Inc., 115 Vt. 324, 58 A.2d 884 (1948).

50. See Dwan, *Workmen's Compensation and the Conflict of Laws,* 11 MINN. L. REV. 329, 331 (1927); Note, 25 MICH. L. REV. 663 (1927); see also RESTATEMENT, CONFLICT OF LAWS 485 (1934). But compare 2 BEALE, CONFLICT OF LAWS § 398.1 (1935).

as are conferred by the statute creating them, it is understandable that the possibility of enforcement by an administrative tribunal of a right to compensation created by the law of another state generally has not been considered. However, statutes of the type found in Arizona, Hawaii, Idaho and Vermont, providing for such enforcement by administrative agencies where practicable, may afford a solution to the problem faced by the claimant who desires to enforce his claim in a state other than the one creating the right to compensation.

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