

# **CH. 4 CONSTITUTIONAL LIMITATIONS**

**What are the constitutional limits on state the choice of law methods? Options for analysis:**

**(1) a traditional vested rights approach (increased scrutiny), vs. (2) permissive approach.**

**Consider constitutional provisions:**

- 1) Due process & equal protection clause**
- 2) Full faith & credit clause**
- 3) Privileges and immunities clause**
- 4) Commerce clause**

# **Constitutional Limits**

## **p. 298**

**Home Insurance v. Dick, p. 298**

**Texas resident/plaintiff sues in Texas (forum) on Mexican casualty insurance policy issued by Mex. Ins. Company, asserting jurisdiction in rem against reinsurers in New York.**

**Def. not doing business in Texas.**

**Suit commenced more than one year after loss.**

**Mexican policy states must be commenced within one year. Loss in Mexican waters. *Cont.***

# Home Insurance v. Dick, cont.

Tex. Statute says contract can not provide for less than a two year period to commence action.

Tex. trial court-judgment against garnishees.

Affirmed on (two) appeals in Texas.

Assertion in U.S. Sup. Ct. that statute violated due process clause of 14<sup>th</sup> Amendment.

Held: (1) Federal jurisdiction does exist;

(2) Statute deprives garnishees of due process;

(3) Tx. public policy not superseding here.

(4) Due process benefits reinsurers & aliens.

# **Delta & Pine Land Co., p.303 U.S. Sup. Ct.**

**Tennessee as principal place of business.**

**Insurance contract protecting against employee embezzlement. Litigation (in Miss.) & then moved place of business to Miss. Was Miss. S/L applicable to void contractual limitations?**

**Held: No right was vested elsewhere and Miss. policy grounds did not permit abrogation of the contract which had been based in Tennessee.**

# **Noting these constitutional limits**

**P.304 – does the state have some minimal contacts to enable application of its own law under the U.S. Constitution due process clause?**

**Do overwhelmingly stronger contacts in another jurisdiction favor the law of another state - a full faith & credit analysis is essential here.**

# **Pacific Employers**

## **Insurance Co.**

**P.304**

Mass. employee of Mass. employer with injury in Cal. Does full faith & credit clause preclude Cal. workmen's comp. act from superseding Mass. workmen's comp. statute?

Employee filed Cal. workmen's comp. claim.

Cal. Commission ordered compensation paid.

Does Mass. statute govern in Cal. court (under full faith & credit clause)? A Mass. contract of employment; but conflict with Cal. statute.

**Conclusion: Cal. statute can be applied.**

# Watson v. Employers

## Liability

p.308

La. insurance code allows direct action against liability insurance company. Action in La. against Ins. Co. for personal injury in La. For product manufactured in Illinois.

Insurance policy issued in Mass. & Ill.

Policy includes a no direct action clause until tort liability determined against manufacturer.

Insurer asserts due process violation – state is seeking extraterritorial jurisdiction.

Held: La. has valid interest; due process OK & no violation of full faith & credit. *Cont.*

# **Watson v. Employers Liability continued**

Analysis in opinion supporting La. law as being applicable (i.e., local contacts).

- **Likelihood that persons injured in La. would be resident in Louisiana.**
- **Medical benefits to La. residents best provided in Louisiana.**
- **La. Interested in providing tort benefits for La. residents.**

# Clay v. Sun Insurance Office

p.310

Diversity case for damages under ins. policy.

Policy purchased in Ill. but insured moved to Fl.

Does (1) 12 month-suit clause in the policy govern, or (2) the Fl. statute effectively nullifying this clause when providing for a 5 yr S/L?

Holding: Adequate contacts for the transaction and the parties in Fl. and, therefore, not violating due process or full faith & credit.

Here comparing Dick case where the (Texas) forum activities were deemed “too slight.”

# **Quill Corp. v. North Dakota**

**p.313**

State has a due process right to collect use taxes from mail order (& internet) merchandisers with no physical presence in the state.

What is a “use” tax; cf., sales tax.

But, how obtain jurisdiction in the state?

Proceed in the merchandiser’s jurisdiction?

But tax liabilities not enforced; cf. interstate compact for tax liability enforcement.

# **Allstate Ins. Co. v. Hague p.313 No Majority Opinion**

**Due process clause or full faith & credit clause  
barring Minn. court re choice of substantive  
Minn. law re an insurance policy?**

**Stacking of 3 claims for uninsured motorist?**

**Allstate arguing Wis. law: place of accident,  
policy & residents (at time of accident). But,  
Minn. forum interprets Minn. choice of law  
rules as requiring Minn. law to permit stacking  
(& not Wis. law to disallow stacking of the  
claims).**

**Cont.**

# Allstate Ins. Co. v. Hague continued

Did the Minn. Sup. Ct.'s choice of its own substantive law in this situation violate the full faith & credit clause of the U.S. Constitution?

P. 316: For state's substantive law to be constitutionally acceptable the state must have significant contact(s) creating the state's interest; the choice of law can not be fundamentally unfair.

Holding: Minn. has three contacts with parties and occurrence and this is sufficient. Cont.

# **Allstate Ins. Co. v. Hague continued**

**Plurality opinion & three factors:**

- 1) Decedent employed in Minnesota – p.316.**
- 2) Insurer doing business in Minn – p. 318.**
- 3) Plaintiff (estate representative) became bona fide resident in Minn. before initiating this litigation – p. 318; i.e., not moving to Minn. for forum shopping purposes.**

**Minn. had a “sufficient aggregation of contacts” (p. 318).**

# **Allstate Ins. Co. v. Hague continued**

Stevens concurrence with judgment – p.319.

Issues: 1) Does full faith & credit clause require Minn. court to use Wisconsin law? Not here – no threat to Wis. sovereignty, even though under normal conflict law Wis. law applicable.

2) Does due process clause prevent Minnesota from applying Minnesota law? This choice of law decision is not fundamentally unfair. Policy coverage here is applicable throughout the U.S.

See p. 323 re limited jurisdiction in this case.

# **Allstate Ins. Co. v. Hague cont. – Dissent Opinion**

Powell dissenting opinion – p.323

Agreement that choice of law should be invalidated when state picks its own law and no significant contacts in that situation.

But, here, only trivial contacts between the forum state (Minn.) and the litigation. P. 325

And, forum state must have a legitimate interest in the outcome of the litigation. P.324.

# **Phillips Petroleum Co. p.327**

**Class action in Kansas state court to recover interest for royalty owners on delayed royalty payments made by Philips.**

**U.S. Sup. Ct. sustains Philips claim re choice of law. ¼ of 1% of leases at issue were in Kansas.**

**Only 1,000 of 28,000 class members in Kansas.**

**Kansas court had awarded interest on suspended royalties (at a specified rate).**

**Philips claimed court should have looked to the laws of each relevant state.**

**Cont.**

# Phillips Petroleum Co.

p.327

Continued

Kansas Sup. St. said every cause of action for the class action members could be decided under Kansas law.

But, 99% of leases had no contact with Kansas.

Held: Application of Kansas substantive law violated due process & full faith & credit rules.

Plaintiffs desire for Kansas law not relevant.

Held: expectation of the parties not for Ks. law.

Ks. not having a significant contact with most claims. But, US Sup. Ct. not declaring rules.

# **Text, p. 333**

**After Philips Petroleum case:**

**“We still seem to know very little about what contacts would constitutionally justify application of forum law under the modern learning.”**

# Sun Oil v. Wortman

## P.334

Property owners in Tx., Ok, & La. sued Sun Oil in Kansas to recover interest on royalties.

Action barred by S\L in Tx, Ok. & La.

Kansas Ct. used Ks. S\L (5 years); rejecting full faith credit violation argument by Sun.

Prior US Sup. Ct. holdings that forum S/L ok.

May S/L be considered a procedural matter for full faith & credit purposes?

Held: Ks. may apply its own S/L. Cont.

# **Sun Oil v. Wortman**

## **P.334 continued**

Conflicts rules that become minority positions do not thereby become unconstitutional. P.337.

Ks. not violating Full Faith & Credit clause when applying its own S/L.

Due process claim on Ks. Ct. use of its S/L (p.337) – but rejected.

Any misconstruction of other state law not a violation of the full faith & credit clause.

# **Sun Oil v. Wortman**

## **P.334 continued**

Brennan concurrence in part – p. 338.

No rules for determining unconstitutionality.

S/L are not purely procedural.

O'Connor concurrence/dissent – p.341

-acceptable that not unconstitutional for Kansas to choose its S/L.

However, not constitutional to avoid the interest rates in each state, as set by FERC.

# **Accuracy of State court Interpretation p.343, Q4**

What is the obligation under U.S. constitution of the federal court to assure that the state court has accurately interpreted foreign law (from the state's perspective)? E.g., see Justice O'Connor's observation in Sun Oil re applicable interest rates.

# Obligation and Right to Provide a Forum p.343

1) Can local court (first state) close its door to a claim based on events arising outside its jurisdiction (i.e., in second state)?

2) Can the first state reject a second state's position that a claim arising in the second state can only be litigated in the second state?

See Hughes case (next slide): What constitutional obligation of state to provide a forum for foreign (other state) cause of action?

# Hughes v. Fetter

p.344

Re: Court Access

Wis. estate rep. brings proceeding in Wis. re Ill. auto death and Ill. wrongful death statute.

Wis. court rejected the suit, summary judgment dismissing complaint “on merits,” asserting jurisdiction (under Wis. statute) only for wrongful death suits for Wis. deaths (& not Ill. deaths). Violating full faith & credit? Yes.

Held: Wis. must proceed with suit.

Here parties were resident in Wis. (including estate administrator and insurance co.?) cont.

# Hughes v. Fetter

p.344

continued

Dissent (p.345): Cf., recognizing (1) judgments from another state, vs. (2) right of action created in another state.

Full Faith & Credit clause should not be extended to negate effect of Tenth Amendment to enable state rights recognition.

Note: Ill. law would have similarly provided no jurisdiction to pursue in Ill. a Wis. based wrongful death claim.

Cf., deference (forum nc) vs. discrimination.

# **Wells v. Simonds Abrasive Co. P.347**

Industrial accident in Alabama.

Fed. Dist. Ct. diversity case in Pa.

Ala. had two year S/L (in the wrongful death statute); 1 year Pa. S/L under Pa. conflicts rule.

Held: Full faith & credit clause not mandating using the Ala. two year S/L.

Forum state (Pa.) permitted to apply own S/L.

Dissent: Law where cause of action arose should follow cause of action to wherever presented.

# **Nevada v. Hall**

## **Sovereign Immunity p.351**

May a state claim immunity (under FFC) from tort suit in the courts of another state?

Facts: Nev. state employee negligently kills Cal. residents on Cal. highway. Statutory limit of \$25,000 in suit against State of Nevada (waiving sovereign immunity only to that extent).

Cal. jury awards \$1 million plus damages.

1) Art. III and 11<sup>th</sup> Amend. do not limit one state's courts in exercise of jurisdiction over another state.

*Cont.*

# Nevada v. Hall

p.351

continued

2) Cal. has fully waived its sovereign immunity. Cal. public policy will not dictate Cal. to respect Nev. limit on sovereign immunity. No FFC violation.

3) Comity suggests Cal. entitled to use its policy of compensation in its courts.

Dissent (p.355): Nev. sovereignty should not end at Nev.-Cal. border. Implicit constitutional right of sovereign immunity exists.

Dissent (p.356): consider state parity.

# **Collection of Judgment Issues p.356**

**Can one state enforce a judgment against another state – against assets of 2<sup>nd</sup> state held in 1<sup>st</sup> state's jurisdiction?**

**Should state assets be segregated into many separate legal entities to frustrate collectability of judgment against debtor state?**

**What if in the Hall situation Cal. had retained sovereign immunity doctrine for itself?  
Different result?**

# **Franchise Tax Board v. Hyatt** **p.358**

Hyatt claims for Cal. tax purposes he had moved to Nev. & filed part-year Cal. return. Later, Hyatt files in Nev. alleging intentional tort by Cal. & Cal. claims sovereign immunity. Nev. Ct. asserts protecting its citizens is more important than Cal. sovereign immunity. US Sup. Ct. determines FFC clause does not require Nev. courts to respect Cal. sovereign immunity. No Nev. policy of hostility to Cal. acts.

# Constitutional Limits on Interstate Discrimination

P. 360 These limits are:

- (1) Equal protection clause,
- (2) Privileges and immunities clause

Both impose constitutional limits on interstate discrimination.

In addition:

- (3) Due process clause, and
- (4) Full faith & credit clause.

# **Austin v. New Hampshire** **p.362 State Taxation**

Residents of Maine; employed in N.H.; subject to N.H. Commuters Income Tax.

Petition that this tax violates (1) privileges and immunities clause and (2) equal protection clause of U.S. Constitution.

N.H. Sup. Ct. upheld this tax.

Reversed - privileges and immunities clause.

This tax only applies to N.H. non-residents; not to N.H. residents on income from any source.

# **Austin v. New Hampshire** **p.362** **cont.**

Privileges and Immunities clause makes noncitizenship & nonresidency an improper basis for classification.

Consider the structural balance for federalism.

**P.365:** Rule of substantial equality for taxing state (1) citizens and (2) nonresidents.

Here tax imposed exclusively on non-residents (and no other counterbalancing offsets).

& no benefit from discrimination on other side.

**Dissent:** p.366 –no substantial federal issue.

# **Austin case Implications**

## **p.368**

**Is “interest analysis” constitutionally invalid?**

**Should the interest of the foreign parties mean their foreign jurisdiction laws should be applied (rather than local law)?**

# Further Discrimination against Nonresidents

Baldwin, p. 369: Not a violation of privileges and immunities clause where a higher cost for hunting and fishing licenses. This issue not bearing “on the vitality of the nation.”

Hicklin v. Orbeck, p.369: Violation of privileges and immunities clause where Alaska discrimination for residents when for jobs and pipeline permits on state properties.

# **Further Discrimination vs. Nonresidents, P.369, ¶6**

- Texas statutes re (1) S/L borrowing statute requiring non-resident plaintiff in Tx. Courts and to satisfy Tx and other state S/L; and (2) permitting dismissal of out-of-state asbestos exposure claims unless brought by a Tx. legal resident.

- W.Va. Forum - Va. Resident sues in W.Va. against W.Va. Corp. for forklift product liability. W.Va. Code disallows precludes W.Va. forum unless claim occurred in W.Va.

# **State Bar Admission Residency Requirements**

**P.370- U.S. Sup. Ct. invalidates (on privileges and immunities grounds) state rules requiring in-state residency to enable admission to the bar.**

# **Additional Invalid Residency Requirements**

**P.370 – One year residency to enable welfare benefit eligibility (based on “right to travel”).**

- One year’s residency requirement for voter registration.**
- Student (in Conn.) can not become resident for in-state tuition purposes.**
- Cal. welfare benefits limited during the first year of state residence.**
- Ia. one year residency requirement to obtain divorce from state courts. Sosna case,p.370**

# **Same-sex Marriage**

## **Statutes**

**p.371 (9)**

**Mass. statutory provision permitting same-sex marriage but denying non-resident same-sex couples the ability to enter same-sex marriage where they intend to live in a jurisdiction prohibiting same-sex marriages.**

**Subject to U.S. constitutional limitation?**

# **G.D. Searle v. Cohn**

## **p.371**

**N.J. statute tolls S/L in action against foreign corporation where process can not be served.**

**No violation of (1) equal protection clause and (2) due process clause. Remanded for consideration of commerce clause challenge.**

**Eleven year lapse before suing in N.J. drug company for stroke effect from drug.**

**Removal to Fed. Ct. & Def. asserting 2 yr. S/L.**

**Response with tolling provision. Cont.**

# **G.D. Searle v. Cohn**

**p.371**

**cont.**

N.J. court had determined that tolling was in force despite enactment of a “long-arm statute.”

Holding: that the tolling provision does not deprive the “unrepresented” foreign corporation of the equal protection of the laws. Suit can proceed (subject to remand). Def. protected by “laches,” if necessary.

Stevens dissent: no legitimate purpose for the special burden imposed on the unregistered foreign corporation.

# **“Extraterritorial” & “Inconsistent” Regs. P376**

**Dormant commerce clause effect – burden on interstate commerce?**

**U.S. Congress has authority to regulate commerce among the states. Art. 1(8)(3).**

**State legislation can not discriminate against out-of-staters.**

**State law can not significantly burden interstate commerce.**

**State law can not operate extraterritorially.**

# **Brown-Forman Distillers**

## **p.377**

**N.Y. state top limit on wholesale liquor prices from producer – to the lowest price elsewhere.**

**A forbidden regulation of interstate commerce?**

**Court indicates prospective statute regulates out-of-state transactions in violation of the commerce clause of U.S. Constitution.**

**Requiring in-NY state approval before a transaction in another state violates U.S. Const.**

**N.Y. may not “project” its legislation elsewhere.**

# **Quill Corp. v. North D. p.381**

**Issue re state's commerce clause power to tax activities outside the particular state.**

**Prior re no due process clause violation. P.313.**

**Here: Tax invalidated under commerce clause analysis. Must be substantial nexus with the state, fairly apportioned and not discriminate against interstate commerce.**

# **CTS Corp. v Dynamics**

**Corp.**

**P.381**

Indiana Business Corporation statute re takeover limitations, i.e., acquisition of control subject to approval of majority of pre-existing shareholders. If no approval to restore voting rights of acquirer then corporation “may” redeem the control shares.

**Does limitation violate the Commerce Clause?**

**Objective of the Commerce Clause? To limit state action concerning interstate commerce.**

*Cont.*

# **CTS Corp. v Dynamics Corp., continued**

Majority holding: no commerce clause limitation: (1) State authority to regulate its domestic corporations, including voting rights of shareholders; (2) State regulations of corporate governance & tender offers for its domestic corporations is permissible.

This act applies only to in-state corporations.

Dissent: Indiana act will substantially burden interstate market in corporate ownership. This act directly inhibits interstate commerce.

# **State regulation of the Internet p.392**

See various cases at p. 392 re commerce clause applicability to restrict state regulations of the Internet particularly regulations concerning “spam” and indecent material.

Numerous decisions (but not unanimous) concerning these limitations violating the commerce clause.

