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# Conflict of Laws in Workmen's Compensation

Analysis of the Current Problem and Suggestions for Improvement

The problem of conflict of laws<sup>1</sup> among workmen's compensation statutes is a peculiarly appropriate one for Federal concern. Whatever questions may be raised about Federal involvement in State workmen's compensation standards and performance in view of the tradition that workmen's compensation is a State matter, it is difficult to see how anyone could object to an overall nationwide approach to the conflicts problem. The reason is self-evident. No single State, acting by itself, can arrive at a satisfactory disposition of the matter. The essence of the conflicts problem is that, by definition, it potentially involves more than one State. A definitive solution, therefore, necessarily involves coordination between all the States.

# I. NATURE OF THE PROBLEM

The reason that conflict of laws is such a conspicuous problem in workmen's compensation is, of course, that under modern conditions of employment, the employees of a single employer may work in many States, often moving from State to State or even out of the country, and may frequently be permanently stationed outside of the employer's home State. One has only to think of such businesses as airlines, trucking lines, bus lines, large construction companies, and companies of all kinds utilizing branch offices and traveling salesmen or solicitors, not to mention the staffs of large publications, traveling shows, and the like, to realize that "out-of-State" injuries, far from being unusual, are everyday occurrences. The second element making conflicts a crucial matter is the extreme disparity among the benefits available in different States.

A potential conflicts problem may arise, not only between two States, but among three or four, and possibly among even five or six. In the *McMains* case,<sup>3</sup> for example, the residence of the employer was in Connecticut, the contract was made in Kansas, the place of employment was Kennedy Airport in New York, the place to which the pilot was assigned was Hamburg, Germany, and the place of injury was Brazil. In another almost textbook example of the problem, the *Daniels* 

case, 4 the claimant's residence was in Illinois, the contract was made in Texas, the home office of the employer was in Michigan, whose law the contract also purported to make applicable, and the accident occurred in Tennessee. 5 The crucial importance of the conflicts question is seen in the fact that if the claimant was limited to a Tennessee recovery, the most that he could have received for a permanent total injury under current rates would have been \$18,800, while in Michigan, with dependents and a long period of survival, it is conceivable he might have received as much as \$400,000. Similarly, as to medical benefits, in Tennessee he would have been limited to a basic \$3,500, plus a possible \$5,000 extension, whereas in Michigan his medical benefits would have been unlimited.

#### II. PRESENT STATUS OF THE LAW

Since the various State compensation statutes, together with whatever conflicts provisions they may contain, have been arrived at independently by State legislatures and have been interpreted independently by State courts, it is perhaps not surprising that the present status of the law is characterized by an almost complete lack of coordination. There are fifty State statutes, some of which contain no provision at all on the conflicts question, and the rest of which display various mixtures of such ingredients as place of contract, place of employment, place of employee's residence, place of employer's business, and several others. Even when the conflicts provisions of two States appear similar, which is rare, the similarity may have been destroyed by judicial decisions, some of which have the aspect of outright amendments to the statutes.

The classical illustration of the kind of tragic miscarriage of justice produced by the failure of the gears to mesh between State compensation acts is *House v*. *Industrial Commission*. <sup>6</sup> The deceased had made a contract in Oregon and was then immediately sent to California as a branch manager. Later he was called back to attend a brief branch managers' meeting in Oregon, during which time he was killed. His widow was denied workmen's compensation benefits in both Oregon and California because at this time California required the place of contract to be within its boundaries before it would cover an out-of-State injury, and because Oregon required the place of regular employment to be there before it would cover even an in-State injury.<sup>7</sup>

How often this kind of inexcusable result occurs in actual practice would be impossible to say without an actual field study. On paper, at least, it would appear that there are numerous opportunities for this sort of "falling between two stools" to occur. In Bank v. Meyers, 8 although both the injury and the contract were within the

State, Maryland denied compensation because the employer's place of business was not within the State, and this condition was a basic requisite for application of the Maryland statute.

The mathematical probability of such miscarriages increases sharply as the number of components required to be within the State increases. For example, Virginia, North Carolina, and South Carolina require, before they will accord coverage to an out-of-State injury, that the place of contract be in the State, the place of the employer's business be in the State, and the employee's residence be in the State. Now suppose that the contract were made in Virginia and the place of the employer's business was in Virginia, but the employee's residence was in North Carolina, as could easily happen along the common boundary of these two States. Then suppose that the employee suffered an accident while temporarily in Ohio. On the face of their statutes, neither Virginia nor North Carolina would seem to cover the injury. Ohio by statute does not cover temporary visitors if they are "insured" in another State; consequently, there might be some question on coverage by Ohio since, in a sense, the employee was insured elsewhere. For a clearer example of non-coverage, one could go back to the situation in New York under Wesotsky v. Storch<sup>9</sup> prior to the decision in the Rutledge-Rhodes cases. 10 During that period, as a result of a judicial decision, New York definitely did not cover temporary visitors under any circumstances. Thus, the problem could have arisen on any temporary visit to New York by any employee who had in any way divided the requisite elements between Virginia, North Carolina, or South Carolina.

#### III. TIMELINESS OF REFORM EFFORT

Past efforts to work out some kind of overall solution to the conflicts problem have invariably failed, but there is every reason to believe that various changes in conditions have brought us to the point where successful action is now possible. The American Bar Association, for example, had a special committee that worked on this matter for several years and finally gave up. Since that time, there have been significant changes in attitudes on conflicts and in theories of what the real objectives of conflicts rules are.

The most significant and pervasive change is that conflicts law generally has moved from an era of conceptualism to an era of pragmitism, with workmen's compensation law cases providing the leading landmarks at many points.

The period of conceptualism is often identified with the great conflicts scholar Beale and with the first Restatement of the Law on conflict of laws, which was dominated by "Bealean" theories. At that time, there was a pervasive urge to arrive at a logical pattern under which one could say of a particular case: "This State's law applies, and no other's." Among the objectives of such a system, practical considerations were almost completely absent. What counted was esthetics, symmetry, and logic. The ideal solution was a pattern with all the edges meeting neatly, with no overlaps, no inconsistencies, no gaps, and no uncertainties.

Then began a process of eroding the conceptual approach and replacing it with the pragmatic approach based on "valid State interests." There is no occasion to rehearse here this long constitutional story. One may simply summarize it by saying that it began with Bradford v. Clapper, 11 in which the Supreme Court had held that New Hampshire could not apply its compensation law to a decedent killed while on temporary duty in New Hampshire, when all of the other features of the employment were within Vermont, since this would violate New Hampshire's duty to give full faith and credit to the laws of Vermont. This decision was soon followed, however, by a series of Supreme Court decisions that ended by firmly establishing the rule that any State having a legitimate interest in the episode could apply its compensation law without offending the Full Faith and Credit Clause. 12

The principal reason, then, why a present effort could succeed where earlier efforts have failed is that it is now possible to be clear about the real objectives of conflicts law. Earlier efforts were confused by inability to decide upon or agree upon the extent to which conflicts laws should attempt to satisfy such objectives as symmetry, consistency, logic, esthetics. and constitutional orthodoxy. The present effort can put all these considerations to one side, and concentrate solely on the practical question of what kind of conflicts arrangement will best carry out those objectives which the workmen's compensation system has been created to serve.

This change in the underpinnings of the constitutional structure is matched by corresponding changes in the opportunities for freedom of action in the statutory and decisional realms. Most of the existing statutory provisions, and most of the early judicial decisions either creating conflicts rules or interpreting statutory rules, reflected the conceptual approach of the earlier period. One school of thought proceeded on the theory that workmen's compensation was essentially a branch of tort law, and therefore the tort theory of *lex loci delicti*, making the place of injury the controlling factory, should apply. The principal competitor of this theory, which soon became the dominant view, was the contract theory. This approach was based on the idea that

compensation statutes become a part of the employment contract since, in this view, the right to workmen's compensation was an incident of the contractual employment relation. It followed that the place where the contract was made became the dominant factor. Both of these underlying theories are now largely discredited, but the conflicts rules that were derived from them, particularly from the contract theory, have become embedded in many statutes and a few decisions. The third principal theory was that workmen's compensation dealt with the "employment relationship" and that therefore the place of that relationship should be the place where the statute applied. This theory made more sense and was a much less artificial idea, but its defect was that the "place of employment relation" had a sort of mystical quality that was difficult to tie down to a particular physical area. As to the first two theories, one was always quite sure where the injury took place and usually but not always could decide where the contract was made simply by applying straight contract law, but the idea of an entity called the "employment relation," involving as it did two different people, was somewhat more elusive.

# IV. THE REAL OBJECTIVES OF COMPENSA-TION CONFLICTS REFORM

If we can now proceed on the assurance that the time is ripe to approach the conflicts problem on a purely pragmatic basis, the starting point is to determine what the real objectives ought to be as to the employee, the employer, and the insurance carrier.

As to the employee, the prime objective is the avoidance of any lacunae in coverage of the sort illustrated by the *House* case and still very possible under many combinations of existing statutes. Fortunately this objective, which is by far the most important in principle, is also the easiest for which to frame a solution, as will be shown below.

So far as the employer is concerned, the main objective should be to avoid unreasonably prejudicing him by requiring him to cover an unexpected injury with no opportunity to insure against that liability in advance. Working out this aspect may take a little more complicated planning, but it can be done.

As to the insurer, the main objective is to avoid the possibility of his being saddled with a compensation liability without the chance to collect premiums on the particular risk.

Finally, as to all three, there is the overriding objective of reducing delay, uncertainty, and litigation by making the rules, as far as possible, so clear that resort to courts will not be necessary. One has only to look at the reported appellate cases to get an idea of the decades of

uncertainty, of protracted litigation, of reversals, of appeals, and of enormous expense to everyone concerned, that have been the product of past conflicts confusion. In New York, for example, the rules have undergone constant modification and in some points virtual reversal. 13 Texas has experienced a veritable flood of cases. Minnesota has fairly recently in effect reversed its rule, which made the location of the employer's place of business dominant if not decisive. The story of the gradual reversal of Bradford v. Clapper by the United States Supreme Court has already been mentioned. These appellate cases are, of course, only the tip of the iceberg. One can only imagine what must have been going on all this time below the appellate level and, for that matter, what is still going on in various States today as the courts attempt to bring conflicts law into line with modern concepts with very little help from the legislatures.

# V. MEASURES TO IMPROVE COMPENSATION CONFLICTS LAW

## As to the Employee

To meet the objective of avoiding lacunae in coverage, there are two relatively forthright solutions, either one of which would ordinarily insure that some State would provide coverage, and the combination of which would be a completely reliable guarantee of this result.

The first measure would simply be to have every State provide that it will always apply its compensation act to any injury occurring within its borders. One salient advantage of this measure is that, of all the elements that figure in conflicts law, this one is the easiest to demonstrate factually. With extremely rare exceptions, the place where the injury occurred is a simple, demonstrable, physical fact. Determining where a contract is made, by contrast, can give rise to complex questions of law and fact, as when a somewhat tentative agreement is made on the phone between two States, perhaps even involving a hiring hall or employment agency.

Moreover, in the spirit of a modern emphasis on valid State interest, it is clear that the interests of the State of injury are strong. The medical and hospital bills are probably owed to persons within the State; the witnesses to the injury are quite probably in the State, as are other forms of evidence; and finally, the State's safety laws may be involved in the accident. Above all, failure to provide suitable protection may mean that the State of injury will have on its hands a destitute and disabled man that may place a burden on the welfare resources of the State. It is interesting that New York has finally come around to this position in the *Rutledge* case, which in effect reverses *Wesotsky*. <sup>14</sup>

The second measure would be to have each State, in

its extra-territoriality clause, make its coverage of out-of-State injuries apply to each of the major items of legitimate State interest in disjunctive rather than conjunctive terms. For example, the statute could provide that it applies to an out-of-State injury if the place of contract was in the State, or the employment was localized in the State, or the employee's residence was in the State, or the employer's principal place of business was in the State. It would not be absolutely necessary to list all four of these components; the essential feature is to connect them by "or" rather than by "and," so as to avoid the kind of problem identified above as flowing from the Virginia and Carolina type of provision. 15

By this combination, there will always be one State clearly covering an injury, and almost always two when any out-of-State feature is present. Such an arrangement would serve a second possible objective so far as the injured employee is concerned, and that is to offset the inherent disadvantage in the matter of making an informed and most advantageous choice when more than one compensation act may be applicable to his injury. Under McCartin, 16 the rule was established that there is no constitutional impediment to a second award under the laws of a second State when both State laws can validly apply. The amount paid under the statute of the first State is, of course, deducted from the recovery in the second State. Apart from the constitutional issue, the practical consideration at work here is undoubtedly the conviction that an injured employee cannot always be expected to make the most favorable choice among State statutes potentially applicable to his claim, particularly in the light of the highly complex and shifting character of conflicts law. The decision does contain the reservation that it would not apply if the law of the first State contained an explicit provision forbidding the seeking of additional or alternative relief under the laws of another State. With one exception, all subsequent decisions have held that the kind of typical exclusive-remedy clauses found in compensation acts do not come within this exception to McCartin. The one out-of-line case is Gasch v. Britton. 17 Although this is a very badly reasoned decision, the fact that one fairly important court could reach this conclusion confirms the desirability of having an explicit provision in the statute stating that an award in another State is not affected by an award in the first State except for reduction of the amounts paid or awarded in the other State.

From the point of view of the employer and insurer, it could be validly argued that this successive-award principle is undesirable as leaving open the possibility of repetitious claims based on the same injury. However, the comparison here is between a substantive right and a

procedural inconvenience. As to the substantive right, the effect is to give the employee what at least one jurisdiction has determined he is entitled to, while the worst that can happen to the employer and carrier is that they end up by paying no more than they would have paid had the employee made the wisest choice in the first place.

## As to the Employer

There are two measures that could be applied to avoid the possibility that an employer, who has conscientiously taken out insurance in the State or States where he thought he might become liable, unexpectly finds himself defending a claim under some other act. The danger is that he might find himself treated as a non-insured employer, and thus bring down upon himself various penalties as well as common law liability without common law defenses.

The simplest solution would be a universal provision in all acts that all insurance policies covering any workmen's compensation liability shall be deemed to cover the liabilities of the employer under all acts, in all places, and for all his operations, and that any attempts to limit this comprehensive liability are void. There is nothing particularly drastic about this, since this result has already been arrived at judicially under some "full-coverage" statutes.

A second solution would be that worked out by the Council of State Governments, which provides that the employer who is insured in one State, but unexpectedly has a claim under another State's act, can file a certificate showing that he is insured in the one State, and thereby be relieved of any penalties for non-insurance.

#### As to the Insurer

To protect the insurer from liability for higher benefits than those insured against, the insurer could be made liable only to the extent of the benefit level in the State under whose act premiums were collected. The employer would be liable for the excess as a self-insurer. For this excess he could be required to post security on the same basis as other self-insurers.

Since the Council of State Governments worked out its somewhat complicated solution on this problem, there has been considerable expansion of the use of devices to minimize their necessity. For instance, the use of "all States coverage" provisions, whether or not compelled by statute, permits the employer and carrier to deal in advance with the kind of problems here discussed. At least as to the national carriers, the insurance principle is broad enough to spread the loss in such cases when considered on a long-term, nationwide basis.

#### VI. LONGSHOREMEN'S CONFLICTS

We may now briefly consider, in addition to the conflicts problems between State acts, the distinctive conflicts problem involving three Federal acts that deal with industrial injuries: the Longshoremen's Act, the Jones Act for seamen, and the Federal Employers' Liability Act (F.E.L.A.) for interstate railway workers. Of these three, the only true compensation act is the Longshoremen's and Harbor Workers' Compensation Act.

There is a remarkable parallel between the constitutional story in this area and that in the area of State-versus-State conflicts. In the early days of workmen's compensation, the States applied their acts to waterfront workers with no worries about constitutional limitations. Then came the unfortunate Jensen case in 1917.<sup>18</sup> This case held that a State workmen's compensation act could not constitutionally be applied to a longshoreman working on board a ship unloading cargo, when the ship was on navigable waters and the longshoreman was working under a maritime contract. The theory was that the application of State acts in the circumstances would impair the uniformity of maritime law. Jensen was to Longshoremen's conflicts what Bradford was to State conflicts. The story since Jensen, like the story since Bradford, has been one long Supreme Court retreat from this rigid and conceptual constitutional position. Without tracing this tedious story, one may outline several clear-cut rules now placed beyond the reach of controversy by the Supreme Court:

- The Longshoremen's Act always covers all injuries on navigable waters.<sup>19</sup>
- The Longshoremen's Act never covers any injuries not on navigable waters.<sup>20</sup>
- State acts always can, and usually do, cover all injuries on land.
- 4) Whatever the constitutional theory may be, State acts, in practice, have also been covering practically all waterfront injuries, including those on navigable waters.

This last item needs a bit of explanation. The present position has come about, not by any clean-cut application of constitutional principles, but by the operation of the "twilight zone doctrine." One might almost say that it is a case of a procedural rule producing a substantive result that otherwise would be difficult to account for. The procedural factor is that the United States Supreme Court simply will not review cases in this area, with the result that if a State makes an affirmative compensation award on a particular set of facts, and if in another case an award is made under the Longshoremen's Act on identical facts, both cases will stand side by side on the theory that they

are within the twilight zone and will therefore not be reversed. The position can be summed up by saying that in the last 40 years, the Supreme Court has never actually struck down a State award for an injury occurring upon navigable waters.

In the four-part pattern noted above, everything fits neatly into place except the fourth item. The kind of mind that is disturbed by lack of consistency and symmetry might well wish to restore the neatness of the pattern by saying that State acts should never apply to injuries on navigable waters. However, if one puts aside the claims of esthetics and again concentrates on practical considerations, the better view seems to be that the present situation might as well be left alone. If we resort once more to the "State-interest" approach, we see that a State does indeed have a valid interest in providing perhaps even better benefits than those under the Longshoremen's Act for those of its residents who work on the waterfront but who probably live within the State.

Considering that a longshoreman unloading a ship walks in and out of the Longshoremen's Act every time he crosses the gangplank, it makes little sense to say that some sacred principle of maritime uniformity would be shattered if the State were allowed to apply to him its own policies on what benefits should be paid, whether he happens to be on one side or the other of the gangplank. Moreover, the suggested continuation of this present rule avoids any chance of a gap of coverage between Longshoremen's and State acts, as might conceivably occur in close cases.

The conclusion, then, is that no particular changes should be recommended as to the relation of the Longshoremen's Act to State acts.

#### VII. JONES ACT CONFLICTS

The Jones Act is an act which provides for "seamen" the same type of remedies that the F.E.L.A. provides for railway workers. Here again, on the whole it seems best not to attempt to change the situation by any kind of State or Federal legislation.

When the conflict is between the Jones Act and the Longshoremen's Act, the line is already very sharply drawn, as sharply as legislative language can make it. If the claimant is a master or member of the crew of a vessel, the Longshoremen's Act does not apply. A great deal of case law has grown up around this dividing line, but since the case law is already there, there is probably no point in attempting to codify it and thus set off another round of interpreting new statutory language.

When the conflict issue arises between the Jones Act and State compensation acts, there are some problems

developing that promise to keep the courts busy for some time, but even here it is very difficult to see how any legislative intervention could help the situation much. The principal problem I have in mind is the gradual extension of the Jones Act to shore-based workers on dredges and the like. The reason there is somewhat of a problem is that the special features of the Jones Act and its interpreting cases were worked out fairly much with a mental picture of the typical seaman, who, because of the somewhat unnatural conditions of his "cooped up" existence aboard ship and his exposure to the perils of exotic faraway places, was thought to need special solicitude. We are now finding these same special rules being urged for the benefit of workers who live in the suburbs of Portland and happen to spend their days working on a dredge or floating pile driver. The reach of the Jones Act has been expanded in two principal ways: the concept of "seaman" has been greatly expanded, and at the same time there has been a tremendous extension of the range of on-shore injuries brought within the act. These trends came to a sort of climax in the Williamson case,<sup>21</sup> in which it was held that a shore-based worker who worked during the day on a dredge was within the Jones Act while riding in a co-worker's car on his way to work. This case is probably not as remarkable as the deciding judge evidently thought it was, since the same result would be reached under State law for resident employees, traveling employees, and various other workers whose positions are essentially the same as that of seamen. Moreover, since the transportation was furnished by the employer, the case would fit easily within the majority workmen's compensation rule, which is that the going and coming trip is covered if it is furnished or paid for by the employer.

It should never be forgotten, however, that what appears to be a liberal holding when the affirmative availability of Jones Act remedies is involved may be a correspondingly illiberal result if, on the facts, the only remedy open to the worker would be a State workmen's compensation grant. The situation here is a little different from that under the Longshoremen's Act, since it begins with a doctrine of preemption of the field by the Federal act, whereas the Longshoremen's Act specifically excluded from its coverage areas in which compensation "may" be provided by State law — an exception which was interpreted out of existence in the Calbeck case. Even so, there is a kind of de facto twilight zone even between the Jones Act and State compensation acts which somewhat softens the edges of this preemption rule.

On balance, it would probably be better to leave the whole area alone, even though there are a lot of things about it that one would perhaps like to tidy up. Any

amount of tinkering with the present situation might raise more problems than it would solve.

## VIII. F.E.L.A.

At one time there was quite a lot of litigation about drawing the line between the F.E.L.A. and State workmen's compensation acts. This controversy has practically disappeared from sight. For all practical purposes, the act now applies to all workers employed by interstate railroads. No doubt one could recommend that the statute be amended to say so plainly, instead of being limited to workers whose activities "affect" interstate commerce. In other words, Congress could restore the language of the original Act of 1906, which was held unconstitutional. In view of the much more permissive standards of constitutional law today, it seems quite evident that such an act would now be held constitutional.

However, it may be questioned whether such an amendment would really change anything since the decisions of the courts, including the Supreme Court of the United States, have expanded the concept of "affecting" interstate commerce to the point where everybody seems to assume that all interstate railway employees are within the act. The two cases that seem to have put an abrupt end to the prolific flood of controversies about "affecting" interstate commerce were Reed v. Pennsylvania Railroad Company<sup>22</sup> and its companion case, Southern Pacific Company v. Gileo. 23 In Reed it was held that a woman filing tracings from which someone else would make blueprints from which someone else would make repairs was engaged in activity affecting interstate commerce. In Gileo it was held, contrary to earlier assumptions, that a man working on the construction of new railway cars was covered. Since clerical workers and workers on new car construction were two of the categories that previously had been thought most unlikely to be covered by the Act, it is perhaps not surprising that since these two cases there has not been a single case in the Supreme Court involving this boundary line between the F.E.L.A. and State acts.

Assuming, then, that the issue is whether the existing F.E.L.A. should be equipped with a more specific provision delineating where it leaves off and where State compensation acts take over, the conclusion would be that such an amendment would accomplish virtually nothing. Of course, there are other much more radical moves that are at least theoretically possible. One would be to restore the entire coverage of railway workers to the States, putting them in the same position as workers on bus lines or airlines. The other would be to pass a true workmen's compensation act for railway workers. These possibilities will not be discussed here, both because they

are extremely unlikely to receive serious consideration in view of the generosity of recoveries under the F.E.L.A. and the virtual conversion of that act to a no-fault act, and partly because this paper is designed primarily to deal with conflicts problems between existing acts, as distinguished from fundamental alterations in the character of the acts themselves.

## IX. CONCLUSION

This analysis has been addressed to the various specific points at which conflict laws could be improved, with some suggestions on the content of measures that would bring about the desired improvement. No attempt has been made to open up the inevitable next question, which is how one would go about getting this kind of legislation passed. The same problem will recur at every point where it is concluded that some change in State workmen's compensation standards or provisions would be desirable. Presumably, whatever course is recommended as to standards generally, could also be applied to the standard of proper legislative disposition of the problem of conflict of laws.

# NOTES AND REFERENCES

- 1. The term "conflict of laws" is used here as the most comprehensive term to embrace all problems having to do with determining what statute or statutes apply to a particular compensable injury or death. The term "extraterritoriality" is frequently used and is virtually interchangeable with "conflict of laws" since in the great majority of cases, the issue is whether a State will apply its laws to an injury occurring outside its boundaries. However, this is not necessarily always the problem; questions also arise whether a State will apply its compensation act to an injury even within its boundaries when all or most of the incidents of the employment relation were outside of the State.
- 2. Employees of interstate railways are subject to the Federal Employers' Liability Act, which is, theoretically at least, a fault-based statute, with the usual common law remedies eliminated or modified, and not a true workmen's compensation act. For some reason, however, Congress has never brought other interstate carriers under a Federal system, although obviously it has the constitutional power to do so. Since the Federal Government has not occupied the field, State compensation acts have been applied to these other interstate carriers.
- 3. 18 A.D. 2d 956, 237 N.Y.S. 2d 812, motion for leave to appeal denied, 13 N.Y. 2d 593, 190 N.E. 2d 905, 240 N.Y.S. 2d 1025 (1963). New York accepted jurisdiction.
- 4. 327 Mich. 525, 42 N.W. 2d 828 (1950).
- 5. The only question in the case itself was whether the Michigan statute applied. The court held that it did not.
- 6. 167 Ore. 257, 117 P. 2d 611 (1941).
- 7. Oregon has since amended its statute so that this combination could not recur in this form.
- 8. Bank v. Charles Meyers & Co., 182 Md. 556, 35 A. 2d 110 (1943).

- 9. Wesotsky v. Storch Trucking Co., 273 App. Div. 933, 77 N.Y.S. 2d 921 (1948).
- 10. Rutledge v. Al G. Kelly and Miller Bros. Circus, and Rhodes v. Mushroom Transportation Co., 18 N.Y. 2d 464, 223 N.E. 2d 334, 276 N.Y.S. 2d 873 (1966).
- 11. Bradford Electric Light Co. v. Clapper, 286 U.S. 145, 52 S. Ct. 571, 76 L. Ed. 1026, 82 A.L.R. 696 (1932).
- 12. Alaska Packers Ass'n v. Industrial Acc. Comm'n, 294 U.S. 532, 55 S. Ct. 518, 79 L. Ed. 1044 (1935); Pacific Employers Ins. Co. v. Industrial Acc. Comm'n, 306 U.S. 493, 59 S. Ct. 629, 83 L. Ed. 940 (1939); Cardillo v. Liberty Mutual Insurance Co., 330 U.S. 469, 67 S. Ct. 801, 91 L. Ed. 1028 (1947); Carroll v. Lanza, 349 U.S. 408, 75 S. Ct. 804, 99 L. Ed. 1183 (1955). See also Crider v. Zurich Insurance Co., 380 U.S. 39, 85 S. Ct. 769, 13 L. Ed. 2d 641 (1965). Among the sources of legitimate interest that specifically figured in these cases were the place of injury, place where the employment relation is created by contract, the place where the employee or his dependents reside, and the place where the industry is localized.
- 13. See, for example, the progression from Cameron v. Ellis Constr. Co., 252 N.Y. 394, 169 N.E. 622 (1930), to Wesotsky, N. 9 supra, to Nashko v. Standard Water Proofing Co., 4 N.Y. 2d 199, 149 N.E. 2d 859, 173 N.Y.S. 2d 565 (1958), to Rutledge-Rhodes, N. 10 supra.

- 14. See notes 10 and 9, supra.
- 15. The measures here suggested are adopted in the draft Workmen's Compensation and Rehabilitation Law of the Council of State Governments. The reference to "place of contract" could be further limited to cases in which either the employment was not principally located in any State, or the employment was principally located in a State whose law is not applicable, or the employment was outside the United States and Canada.
- 16. Industrial Comm'n v. McCartin, 330 U.S. 622, 67 S. Ct. 886, 91 L. Ed. 1140, 169 A.L.R. 1179 (1947), in effect overruling Magnolia Petroleum Co. v. Hunt 320 U.S. 430, 64 S. Ct. 208, 88 L. Ed. 149, 150 A.L.R. 413 (1943).
- 17. 202 F. 2d 356 (D.C. Circuit 1953).
- 18. Southern Pacific Co. v. Jensen, 244 U.S. 205, 37 S. Ct. 524, 61 L. Ed. 1086 (1917).
- 19. Calbeck v. Travelers Ins. Co., 370 U.S. 114, 82 S. Ct. 1196, 8 L. Ed. 2d 368 (1962).
- 20. Nacirema Operating Co. v. Johnson, 396 U.S. 212, 90 S. Ct. 347, 24 L. Ed. 2d 371 (1969).
- 21. Williamson v. Western-Pacific Dredging Corp., 304 F. Supp. 509 (D. Ore. 1969).
- 22. 351 U.S. 502, 76 S. Ct. 958, 100 L. Ed. 1366 (1956).
- 23. 351 U.S. 493, 76 S. Ct. 952, 100 L. Ed. 1357 (1956).