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Conflict of Laws

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5. A court may take judicial notice of its own records, but only in those of the case on trial. It may not properly notice judicially the pendency of proceedings in other causes in the same court, even between the same parties.[91]

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CONFLICT OF LAWS

Of necessity the author of a Survey article must decide which cases are sufficiently significant for inclusion and which should be discarded. Accordingly, I have omitted certain cases within the conflict of laws area which, to my mind, are of minor significance, as well as some in which, although the court pronounced a neat hornbook conflict of laws rule, the decision actually depended upon other factors.

Full Faith and Credit

Most of the important cases appearing in 1956 deal with full faith and credit. It is fundamental that a second state is not required to give full faith and credit to the judgment of a sister state if the court rendering the judgment did not have jurisdiction. This principle was applied to a judgment by confession in *Antonelli v. Silvestri*,[1] in which the court refused to give full faith and credit to a Pennsylvania judgment by confession, for the very good reason that the words of the rental agreement containing the authority to confess were not broad enough to constitute a consent to the judgment as entered. Consequently, the Pennsylvania court lacked jurisdiction.[2]

In the 1954 Survey,[3] I referred to *Armstrong v. Armstrong*,[4] in which the Supreme Court of Ohio properly refused to give full faith and credit to the decree of a Florida court denying alimony to a defendant wife over whom the court had no jurisdiction in personam. The case eventually wended its way to the Supreme Court of the United States, which affirmed the decision of the Supreme Court of Ohio.[5] However, the majority of the Court thought that the alimony issue was not adjudicated in the Florida proceedings; hence, no question of full faith and credit arose. Four of the Justices affirmed on the basis of lack of jurisdiction, thereby agreeing with the Ohio court.

Blumberg v. Saylor,[6] while in no way denying the applicability of the full faith and credit clause[7] to an Indiana decree ordering a father to pay a stipulated amount monthly for the support of his child, nevertheless

[91] Weber v. Sproat, 137 N.E.2d 640 (Ohio App. 1955)

holds that under the particular circumstances, a release by the mother to the father constituted a defense to an action for back installments, and that no violation of the full faith and credit clause arose thereby.[8]

The *Blumberg* case holds also that subjecting a sister state judgment to the forum's statute of limitations in an action on the judgment, is not violative of full faith and credit.[9]

Motor Vehicles: Title and Liens

Ohio Revised Code section 4505.04 has given rise to some troublesome problems.[10] The pertinent part of this section provides that no court shall recognize the right, title, claim or interest of any person in or to any motor vehicle unless evidenced by a certificate of title. In *Gibson v. Bolner*,[11] the Supreme Court of Ohio held that the statute has no application in a situation where the person is not required to obtain an Ohio certificate of title, and the court recognized a Florida certificate of title designating a gentleman named Bartlett as holding a first lien on the trailer involved in the action. Recognition was based upon the point that an out-of-state certificate of title is a public act and record of the

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[1] 60 Ohio Op. 262, 137 N.E.2d 146 (Ct. App. 1955).

[2] Among other things, the document authorized any attorney of record to confess judgment, but the judgment was confessed by an "esquire."

[3] 1954 Survey, 6 WEST. RES. L. REV. 228 (1955).

[4] 162 Ohio St. 406, 123 N.E.2d 267 (1954)

[5] Armstrong v. Armstrong, 350 U.S. 568 (1956).

[6] 100 Ohio App. 479, 137 N.E.2d 696, *appeal dismissed,* 164 Ohio St. 188, 129 N.E.2d 383 (1955).

[7] U.S. CONST. art. IV, § 1.

[8] The validity of the release is not a conflict of laws question. However, it is interesting to note that the child's welfare was in no way affected, and that in reality the mother was attempting to enforce the Indiana decree for the purpose of obtaining reimbursement for money paid out by her in behalf of the child. Actually, at the time of the lawsuit, the child was no longer a minor and had been married for many years.

[9] Blumberg v. Saylor, 100 Ohio App. 479, 484, 137 N.E.2d 696, 701 (1955). The facts do not show whether or not the Indiana statute of limitations had run. Apparently the court regards that as immaterial. Many years ago, the Supreme Court of the United States decided that the forum state may subject the judgment of a sister state to the forum's statute of limitations, and that this does not violate the full faith and credit clause. McElmoyle v. Cohen, 38 U.S. (13 Peters) 312 (1839).

A recent decision by the Ohio Supreme Court contains a full faith and credit angle, but it is so intertwined with the certificate of title law that I will consider the case under that heading. Gibson v. Bolner, 165 Ohio St. 357, 135 N.E.2d 353 (1956).

[10] See 1955 Survey, 7 WEST. RES. L. REV. 253 (1956); 1954 Survey, 6 WEST. RES. L. REV. 229 (1955); 1953 Survey, 5 WEST. RES. L. REV. 250 (1954).

[11] 165 Ohio St. 357, 135 N.E.2d 353 (1956).

state where issued, and as such is entitled to full faith and credit provided that no violence is done to the established policy of Ohio as expressed in its statutes. Here, no violence was done because, as stated above, the Ohio statute did not apply. The court distinguished *Kelley Kar Co. v. Finkler*,[12] and remarked that the present case is strikingly similar to *In re Swesey*.[13]

Legislative Jurisdiction: Acts Done Outside State: Bastardy

In the interesting case of *Yuin v. Hilton*,[14] the Supreme Court held that under Ohio Revised Code section 3111.01 *et seq.*, a proceeding in bastardy may be maintained against a man who is a resident of and is domiciled in Ohio, despite the fact that the child was begotten, conceived and born in another state and that the mother and child were never residents of Ohio. The court held that such an action may be maintained regardless of the laws of the other state. The general principle was announced that the statutory law of the forum state may in some instances provide for or create a cause of action based upon something done beyond its borders, where the forum state has a reasonable interest in imposing the particular obligation. The court quoted extensively from section 455 of the Restatement of Conflict of Laws and the comment thereto. To the argument of counsel that a bastardy action is a civil action in tort and that the place of the alleged wrong determines whether there can be a cause of action in tort, the court replied that the existence of this cause of action depends upon the Ohio bastardy statutes rather than upon the ordinary conflict of laws rules governing torts.

Decedents' Estates: Ancillary Administration

Ohio Revised Code section 2129.04 provides for ancillary administration of the estate of a nonresident of Ohio in any county where property of the decedent is located. In the case of *In re Wilcox*,[15] Mr. Wilcox, who apparently lived in Colorado, was involved in an automobile accident in Vinton County, Ohio. People by the names of Shelby and Tripp, all domiciled in Ohio, were in the other car. Wilcox died. The Shelbys and Tripp filed claims in Colorado against the Wilcox estate, arising out of

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[12] 155 Ohio St. 541, 99 N.E.2d 665 (1951); 1955 Survey, 7 WEST. RES. L. REV. 254 (1956); 1954 Survey, 6 WEST. RES. L. REV. 229 (1955); 1953 Survey, 5 WEST. RES. L. REV. 250 (1954).

[13] 112 F. Supp. 773 (N.D. Ohio 1953); 1953 Survey, 5 WEST. RES. L. REV. 250 (1954).

[14] 165 Ohio St. 164, 134 N.E.2d 719 (1956). The court approved and followed *McGary v. Bevington*, 41 Ohio St. 280 (1884).

[15] 60 Ohio Op. 232, 137 N.E.2d 301 (Ct. App. 1955).