

### Constitutional Law—Full Faith and Credit Doctrine—Extra-Territorial Validity of Divorces (Matter of Lindgren, 293 N.Y. 18 (1944))

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conducted today embraces integrated operations in many states and involves the transmission of great quantities of money, documents, and communications across dozens of state lines. The insurance companies contended that Congress did not intend in the Sherman Act to exercise its power over the interstate insurance trade because it knew that the Supreme Court had prior to 1890 said that insurance was not commerce. The Court answered this by pointing out that there was no exemption for insurance companies in the Act and that the Congress of 1890 also knew that railroads were subject to regulation not only by the states but by the Federal Government itself, but this fact has been held insufficient to bring to the railroad companies the interpretative exemption from the Sherman Act they have sought.<sup>8</sup> Congress used language broad enough to include all businesses and therefore the business of insurance is covered by the Act. The final argument of the defendant was that competition in the field of insurance is detrimental to both the insurers and the insured. It was the view of the Court that whether competition was a good thing for the insurance business was not for it to decide; if any exemptions are to be written into the Act, they must come from Congress. In discussing the effect of this decision on the various state laws regulating insurance the Court pointed out that in the absence of conflicting Congressional action, the state regulatory and tax laws should be declared valid. But the question still remains as to how much the Federal Government will regulate and what effect will the regulation have?

H. F. McN.

CONSTITUTIONAL LAW—FULL FAITH AND CREDIT DOCTRINE—EXTRA-TERRITORIAL VALIDITY OF DIVORCES.—The petitioner, Sonia Jordi, was married in 1925 to Homer D. Lindgren, who was then a faculty member of a university in New York City where he continued to serve until his death in 1942. After the birth of the daughter, Gloria, in 1926, the decedent and his wife lived apart under a formal separation agreement. On October 3, 1939, the decedent was granted an absolute divorce by the Circuit Court of Florida upon grounds not recognized in this state. Two days later, he was married to present appellant, Gladys McDermaid Lindgren. Petitioner did not appear in court in the divorce action, but later, upon ground of mistake of counsel, she procured an order which purported to amend the divorce decree to include her appearance and consent to the final decree. Two months later, and before the death of the decedent, she married Paul Jordi. The courts below have granted petitioner letters of administration upon the estate of Homer D. Lindgren, decedent, not as his former wife, but because she is the guardian of the only child of that

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<sup>8</sup> United States v. Trans-Missouri Freight Ass'n, 166 U. S. 290, 17 Sup. Ct. 540 (1896).

marriage, who claims to be the sole distributee of the decedent's estate (Surrogate's Ct. Act § 118). *Held*, affirmed. The court held this divorce invalid as to the child, a third party, because the surrogate found, as a matter of fact, that the decedent did not comply with the Florida residence requirement,<sup>1</sup> and also that under those circumstances the courts of this state did not violate the full faith and credit clause in refusing to give effect to the Florida divorce decree of 1939.<sup>2</sup> *Matter of Lindgren*, 293 N. Y. 18, 55 N. E. (2d) 849 (1944).

That a state, in giving full faith and credit to judicial proceedings of a sister state, may determine whether the sister state's residence requirements for divorce have been complied with was conceded by dicta in a leading U. S. Supreme Court case.<sup>3</sup> A New York court, in a later decision,<sup>4</sup> availed itself of this opening in the *Williams* case, declaring a Nevada divorce decree invalid because the parties had not met the residence requirements. The Court of Appeals, however, has not, until this decision, gone that far. It rested its decision in the *Matter of Holmes*<sup>5</sup> squarely upon the *Williams* case, giving full force and effect to the divorce decree until impeached by evidence which establishes that the court had no jurisdiction over the *res*. In the principal case, the surrogate has found the evidence necessary to impeach the foreign decree, and New York's highest court has taken the step which the U. S. Supreme Court, though it pointed the way, has so far refused to take.

I. G. McN.

FEDERAL EMPLOYERS' LIABILITY ACT—DISABILITY RESULTING FROM INHALING SILICA DUST—DUTY OF RAILROAD COMPANY TO FURNISH SAFE PLACE TO WORK AND PROTECTIVE DEVICES.—Plaintiff, an employee of defendant, brought suit for personal injuries which he claimed he sustained on August 28, 1939. He had been continuously employed by defendant for some sixteen years as an engine service man. Among his other duties, he was required to prepare sand for use in the locomotive sand boxes, during which operation clouds of silica dust were raised. The plaintiff was furnished no protection such as a mask against the inhalation of the dust, nor

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<sup>1</sup> F. S. A. § 65.02 provides that "In order to obtain a divorce, the complainant must have resided ninety days in the State of Florida before the filing of the bill of complaint." The requirement as to residence has been construed by the Florida courts to mean domicile as distinguished from a mere residence in the state. *Taylor v. Taylor*, 132 Fla. 690, 182 So. 238 (1938).

<sup>2</sup> *Andrews v. Andrews*, 188 U. S. 14, 23 Sup. Ct. 237 (1903).

<sup>3</sup> *North Carolina v. Williams*, 317 U. S. 287, 63 Sup. Ct. 207 (1942). This decision forced the North Carolina authorities to give full faith and credit to the Nevada decree, but "assumed that petitioners had a *bona fide* domicile in Nevada, and not that the Nevada domicile was a sham."

<sup>4</sup> *Ammermuller v. Ammermuller*, 181 Misc. 98, 45 N. Y. S. (2d) 654 (1943).

<sup>5</sup> *Matter of Holmes*, 291 N. Y. 261, 54 N. E. (2d) 424 (1943).