Lect notes 23

Recap

* P&I clause: When a state does not apply its law on the basis of domicile, it allows the sister state law to apply
* Deferring to a sister state is in the spirit of FFC
* However, unprovided-for cases presents a special privileges and immunities problem
* Now, what if CT guest sues NY host for accident in CT? CT has guest statute, NY does not.
* Assume Kramer’s solution – the CT ct applies CT negligence law without the guest statute?
* Is the P&I Clause violated, because CT provides a protection to CT defendants that it does not to NY defendants? Kramer would say we have a P&I problem here, b/c CT is not simply allowing NY to fulfill its regulatory purposes: NY has no interest. It does appear here that CT is discriminating, and that there is a P&I problem here. Kramer therefore would say that the CT court would be obligated to provide CT law to the NY defendant.

Full Faith and Credit for Judgments

1. start out with law on the preclusive effect of judgments in state where judgment is rendered
	1. assume P sues D concerning property damages in an accident
		1. D wins
		2. P can attack directly on appeal
		3. or through motion to rendering court to set aside j
	2. BUT assume these are not done
		1. What will effect of j be?
	3. Assume P sues again
		1. Barred
	4. Assume instead the j was for P
		1. No direct attack again…
	5. P brings a suit on the j
		1. D makes collateral attack
		2. D may not challenge on the merits
		3. Indeed cannot challenge on grounds of lack of jur, except if defaulted
	6. This is the effect of claim preclusion
	7. Assume that P tries to sue again for personal inj in accident
		1. P is claim precluded from suing again
		2. J is merged in claim
		3. Like a joinder rule
			1. varies
				1. in fed ct law is any cause of action concerning the same transaction
				2. sometimes more limited
		4. goal is finality and efficiency
	8. assume that P2 now sues D for negl in connection with same accident
		1. not claim precluded bc different P
		2. no one not a party or in privity with a party can be bound
		3. but D was a party
		4. some states still have a mutuality requirement
			1. but others have given it up
			2. Parklane Hosiery
2. What does **FF&C** require wrt judgments of other states?
	1. State courts must give FF&C to js by other states
	2. Basically same rule applies (by statute or jud doctrine) to js of territories and federal js
	3. Generally – must be given same precl effect they have in the state in which they were rendered
		1. With a few exceptions
3. Fauntleroy v Lum
	1. K for gambling in cotton futures
	2. Made in Miss betw Miss domiciliaries
		1. Such Ks are illegal in Miss
		2. Submitted to arbitration in Miss
		3. P then sued in Miss to enforce arbitr award
		4. Found out illegal
		5. So sued in MO
			1. got j
			2. in effect MO ct made wrong choice of law decision
			3. or made wrong decision about what Miss law requires
			4. If wrong choice of law decision, then MO decision was itself a violation of FF&C, bc MO has no Pac Empl interest
		6. P then brought suit on J in Miss
		7. Miss SCt held not required under FF&C to enforce
			1. viol of laws embodying public policy in that state
	3. one issue is whether the Miss dismissal was simply for lack of jur
	4. The main argument urged by the defendant to sustain the judgment below is addressed to the jurisdiction of the Mississippi courts. The laws of Mississippi make dealing in futures a misdemeanor, and provide that contracts of that sort, made without intent to deliver the commodity or to pay the price, "shall not be enforced by any court." The defendant contends that this language deprives the Mississippi courts of jurisdiction, and that the case is like Anglo-American Provision Co. v. Davis Provision Co., 191 U. S. 373. There, the New York statutes refused to provide a court into which a foreign corporation could come, except upon causes of action arising within the state, etc., and it was held that the State of New York was under no constitutional obligation to give jurisdiction to its supreme court against its will. One question is whether that decision is in point.
		1. the Miss statute prohibiting such Ks might be understood as simply prohibiting jurisd for suits concerning such Ks
			1. Ct rejects idea that it was about jur
				1. Miss statute says the contracts “shall not be enforced by any court”
				2. The case quoted concerned a statute plainly dealing with the authority and jurisdiction of the New York court. The statute now before us seems to us only to lay down a rule of decision. The Mississippi court in which this action was brought is a court of general jurisdiction, and would have to decide upon the validity of the bar if the suit upon the award or upon the original cause of action had been brought there. The words "shall not be enforced by any court" are simply another, possibly less emphatic, way of saying that an action shall not be brought to enforce such contracts.
			2. plus even if it was a rule of jurisd
				1. the suit was to enforce a j
				2. simply a suit to collect a debt
				3. NOT a suit to enforce such a K anymore
		2. But consider the issue of limiting jurisd for suits on js
			1. Anglo-Am Provision v Davis
				1. Holding: NY could refuse jurisd to out of state corporate Ps for suits on judgments rendered out of state between out of state corporationss where the original cause of action arose out of state
				2. we shall return to this case later

to what extent can a state limit jurisdiction for enforcing js

esp can a state do it for reasons tied to public policy

* 1. simple conclusion in Fauntleroy
		1. j of a state court has same effect in another state that it would have in rendering state
			1. true even if choice of law decision was wrong
		2. if its choice of law decision was in violation of FF&C should have done challenged the decision in MO
			1. appeal to US SCt
1. Conclusion
	1. No PPE to enforcement of a j
	2. Recognition is required under FF&C
2. Does it make sense to have broad allowance for public policy in const’l restrictions on choice of law (think of Allstate) and narrow restrictions for recogn of js
	1. But extra interest when j is involved
		1. Finality interest
3. Yarborough v Yarborough
	1. Yarboroughs – domiciled in Ga – get a divorce
	2. Ga allows for final determination of child-support oblig’s through a lump-sum payment
		1. Paid to trust, with grandfather as trustee
	3. Child in SC w/ grandfather
	4. sues in SC for more $ for education
	5. SC court gets PJ over D’s property in SC (also personally served)
		1. Refuses to give earlier Ga j full FF&C
	6. SCt reverses
		1. Various challenges rejected
			1. claimed that it was not a final decree even in Ga – but it was
				1. NOTE that it would be modifiable in SC if it were modifiable in Ga
			2. claimed not binding upon child bc she was not party to suit
				1. she was domiciled there
				2. and party by virtue suit for divorce
				3. even though no guardian ad litem
	7. But what about idea that child support could never really be final
		1. could argue that Ga j is in violation of due process
		2. and that she cannot be bound bc she really had no opportunity to challenge in Ga
		3. but then not valid in Ga too
		4. not really an exception to FF&C
	8. BUT if it is final in GA and that is const’l then is final in SC
	9. Q - is SC treating the Ga judgment any worse than its own js? NO
		1. Given Ga j the same precl effect SC j would get
		2. So why isn’t that enough under FF&C?
		3. Must give Ga j the same precl effect as Ga would
	10. stone’s dissent?
		1. Claims that this is an excessive imposition upon the domestic interests of SC
		2. Gives other examples of alleged exceptions to FF&C
			1. example of not bound by determination of sanity
				1. but that is because it is intrinsically not something that can be determined permanently
				2. true in rendering state too
			2. talks about exception for real property js made in state other than situs of property
				1. will talk about later
			3. js about crimes and penalties
				1. in fact wrt penalties things have now changed
4. notice that 2nd Rest suggests Stone’s approach, but little support in case law
5. what about giving *greater* effect than in rendering state
	1. assume state A has mutuality req for issue precl and state B does not
		1. D is found negl in state A
		2. in state A, a new P cannot take advantage of this b/c need mutuality
		3. can state B give it issue precl effect?
			1. due process worries – D could not haver anticipated…?
			2. BUT is it contrary to FF&C?
			3. unclear
6. Foreclosure of jurisdictional issues
7. Durfee v Duke
	1. Nebraska action to quiet title to bottom land on MO river
	2. Neb ct held that it had juris bc land in Neb
	3. Held for plaintiffs
	4. 2nd suit by Ds brought in Mo ct, removed to fed ct in MO
	5. DCt held issue of location of land was res judicata
	6. Ct App reversed
	7. SCt reversed Ct App
		1. Issue of jur, PJ or SMJ, are entitled to FF&C if fully and fairly litigated
		2. True, even though this is a q of land,
8. BUT what if the property really was in MO
	1. Ct had no jur, so how could its adjud be binding?
	2. In effect it has jur to determine jur no matter what
	3. But isn’t that a viol of due process?
		1. even if it is it must be attacked in first litigation
		2. after all, there was a viol of due process in Fauntleroy (MO ct applied MO rather than Missi law, but no possibility to challenge now)
9. Also need final answer b/c otherwise would have competing judgments
10. Usually do not even need jurisdiction to be actually litigated
	1. Often waivable
	2. Eg PJ
	3. Only challengeable if there was no waiver
		1. Eg b/c D defaulted
11. SMJ is more complicated
	1. SMJ in Durfee v Duke was actually litigated so an easier case
		1. But even then some exceptions
			1. kalb v Feuerstein
				1. State ct took jur over an action concerning a debtor (foreclosure proceeding) – farmer lost his farm
				2. State j was not given FF&C in bankruptcy action in fed ct that was pending
				3. as dictum – SCt said
				4. even if State ct *found* that it had jur over an action despite bankruptcy, the bankruptcy ct could ignore that
			2. Why?
				1. juris in bankruptcy ct is clear
				2. *exclusive* SMJ in bankruptcy ct
				3. all need to be brought together

strong federal interest

* 1. in some cases, SMJ can be waived
		1. eg action in fed ct that has no federal SMJ
		2. not challenged and ct says nothing sua sponte
		3. lack of SMJ can be brought up on appeal
		4. but it is generally thought that a collateral attack is not possible
1. what happens if there is a j, a second ct erroneously does not give it FF&C and issues another j?
	1. which j is controlling
	2. last
	3. WHY?
		1. Encourages challenge on FF&C grounds