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Power of Federal Court to Enjoin Enforcement of State Injunction

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POWER OF FEDERAL COURT TO ENJOIN ENFORCEMENT OF STATE INJUNCTION

Plaintiff brought action under the Federal Employers' Liability Act in the Federal District court of Missouri for the wrongful death of her husband, an employee of the defendant railroad. The accident occurred in North Carolina, and the witnesses and the plaintiff were residents of Tennessee. Upon defendant's petition, a Tennessee court of equity enjoined the plaintiff from further pursuing the case in any courts other than those sitting in Tennessee or North Carolina on the ground that the expense in transporting witnesses could thus be avoided. Upon plaintiff's petition the Missouri federal court ren-

dered an interlocutory decree forbidding further proceedings in the Tennessee court. The decree being affirmed in the Circuit Court of Appeals, the defendant appealed to the Supreme Court. Held, reversed, issuance of such injunction was contrary to Section 265 of the Judicial Code.[1]

The Federal Employers' Liability Act[2] provides that a person can elect to sue in state or federal courts either at the place (1) where the plaintiff resides, (2) where the cause of action arose, or (3) where the defendant is doing business. Since the defendant in the instant case was doing business within Missouri, there is no question but that the federal district court there had jurisdiction over the cause of action.

Did the Missouri federal court, in seeking to enforce its jurisdiction, have the power to enjoin the Tennessee court from enforcing its injunction? The Judiciary Act of 1793, Section 265,[3] has been construed to prohibit federal courts from enjoining proceedings in state courts except in bankruptcy cases[4] and *in rem* cases in which the state court is attempting to interfere with property already in the custody of the federal court.[5] Three of the justices of the United States Supreme Court have argued that a third exception should arise when a claim in controversy in a state court has previously been litigated in a federal court, but the majority of the court has held otherwise.[6] Hence, it is not surprising that the court in the instant case failed to establish the fourth exception for which the plaintiff was arguing; namely—that a federal court may stay proceedings in a state court when the federal court has already assumed jurisdiction under the express provisions of a federal statute.

At first blush this result appears to esmasculate the venue provisions of the Federal Employers' Liability Act, for it throws the plaintiff out of the federal court in Missouri, a court authorized by the statute to take jurisdiction. However, the court has only

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[1] Southern Ry. v. Painter, 62 Sup. Ct. 154 (1941).

[2] 34 STAT. 65 (1908) as amended by 36 STAT. 291 (1910), 45 U.S.C. § 51-59 (1928).

[3] 1 STAT. 335 (1793), 28 U.S.C. § 379 (1928).

[4] Jud. Code, § 265, 28 U.S.C.A., § 379. Toucey v. N.Y. Life Ins. Co., 62 S. Ct. 139 (1941). Cf. Isaac v. Hobb Tie and Lumber Co., 51 S. Ct. 270 (1931), noted in 7 Ind. L. J. 502 (1932).

[5] Bryant v. Atlantic Coast Line R. R., 92 F. (2d) 569 (C.C.A. 2d, 1937); Chicago M. St. P. Ry. v. Schendel, 292 Fed. 326 (C.C.A. 8th 1923); McConnell v. Thomson, 213 Ind. 16, 11 N.E. (2d) 183 (1937); ". . . . (the statute) does not prevent federal courts from enjoining the institution in the state courts of proceedings to enforce local statutes which are repugnant to the constitution of the United States, . . . or prevent them of depriving a party. . . . of the benefits of a judgment obtained in a state court where its enforcement will be contrary to recognized principles of equity and the standard of good conscience." Wells Fargo v. Taylor, 245 U. S. 175, 183 (1920). *See* Field v. Kansas City Refining Co., 9 F. (2d) 213 (1925); Hayes v. Columbus, L. & M. Ry. Co., 67 Fed. 630 (N.D. Ohio 1895); Dickinson v. Willis, 239 Fed. 171 (S. D. Iowa 1916).

[6] Toucey v. N. Y. Life Ins. Co., 62 S. Ct. 139 (1941).

decreed that the federal court had no power to enjoin the state proceeding. The question of the power of the Tennessee court to issue the original injunction remains unanswered. On the strength of a recent decision[7] and a long line of cases[8] holding that state courts cannot enjoin persons, even if they are under the court's personal jurisdiction, from further prosecution of litigation in a federal court which has properly taken jurisdiction, one must conclude that an appeal from the Tennessee injunction would result in a reversal and the reinstatement of the plaintiff in federal court.[9]

The cases furnish vivid illustration of a doctrine that state and federal jurisdictions are independent,[10] and a demonstration of the reluctance of the Supreme Court to permit either federal or state courts to interfere with the proceedings of the other. The doctrine is a striking limitation on the powers of both federal and state courts, for it denies to them the power to grant injunction in certain situations, even though they possess jurisdiction over the person of the defendant.

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[7] Baltimore and Ohio R. R. v. Kepner, 62 Sup. Ct. 6 (1941). Mr. Justice Frankfurter, in a dissenting opinion in which he was joined by Stone and Roberts, argued that the state should have been permitted to enjoin federal proceedings on the general equity grounds of added expense and inconvenience to the defendant. He pointed out that since a state court may decline jurisdiction as a *forum non conveniens*, it should be able to enjoin its residents from suing in a *forum non conveniens*, i. e., where the litigation will be vexatious.

[8] Riggs v. Johnson County, 6 Wall. 166 (U.S. 1867); United States v. Keokuk, 6 Wall. 514 (U.S. 1867); *See*, Oklahoma Packing Co. v. Oklahoma Gas and Elec. Co., 309 U.S. 4, 9 (1939).

[9] Peculiarly enough, state courts have generally enjoined plaintiffs over whom they have had jurisdiction from bringing suits in foreign state courts under the Federal Employers' Liability Act when the action would be burdensome or expensive. Kern v. Clev., Cin., Chi. and St. Louis Ry., 204 Ind. 595, 185 N.E. 456 (1933); Clev., Cin., Chi. and St. Louis Ry. v. Shelly, 96 Ind. App. 273, 170 N.E. 328 (1932); Reed's Adm'x v. Ill. Cent. R. Co., 182 Ky. 455, 206 S. W. 794 (1918); Ex parte Crandall, 52 F. (2d) 650 (S.D. Ind. 1931). But they have refused to enjoin plaintiffs under their jurisdiction from bringing action under the statute in the federal courts located in another state. McConnell v. Thompson, 213 Ind. 16, 8 N. E. (2d) 986, 11 N.E. (2d) 183 (1937); *cf.* Pitcairn v. Drummond, 23 N.E. (2d) 21 (Ind. 1939); noted in (1941) 16 IND. L. J. 111, and supporting the proposition that state courts have no jurisdiction to control the situs of action against federal receivers under the Federal Employers' Liability Act. Because the Supreme Court of the United States has held that the jurisdiction of state courts and federal courts under the Federal Employers' Liability Act is concurrent, Douglas v. N.Y., New Haven, and Hartford Ry. Co., 279 U.S. 377 (1929), and because of the long-established equitable doctrine of *forum non conveniens*, the policy of enjoining actions in foreign state courts and not in foreign federal courts has provoked much criticism. Baltimore and Ohio R. R. v. Kepner, 62 S. Ct. 6 (1941). (dissenting opinion cited in note 7, *supra*). *See* Blair, *The Doctrine of Forum Non Conveniens in Anglo-American Law* (1929) 29 COL. L. REV. 1.

[10] McKim v. Voorhies, 7 Cranch 279 (U.S. 1812); *See* Riggs v. Johnson County, 6 Wall. 166, 195 (U.S. 1867); Central National Bank v. Stevens, 169 U.S. 432, 460 (1898).