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INJUNCTION TO RESTRAIN PLAINTIFF'S BRINGING SUIT IN ANOTHER JURISDICTION—Appellee was injured in 1927 while working as yard switchman in appellant's yards at Indianapolis. In 1928, appellee brought an action in Missouri court to recover for such injuries. The appellant is a corporation duly organized in Indiana and Ohio and operates steam railroad lines through these states as well as through Illinois. Appellant brings present action to restrain such suit. The lower court denied the injunction. *Held*: Judgment reversed. It would be inequitable to permit appellee to try case at a distance since it would cause appellant needless and irreparable damage and give to appellee an inequitable and unfair advantage. *C., C., C. and St. L. R. R. v. Shelley*, 170 N. E. 328, Appellate Court, February 25, 1930.

The problem considered here is the power of a court to enjoin a person from prosecuting a transitory cause of action in a foreign jurisdiction. *Chambers v. B. & O. R. R. Co.*, 207 U. S. 142 (1907), 28 S. C. R. 34. It would seem that the Missouri and Minnesota courts have been the haven for parties seeking damages against railroad corporations. *Weinard v.*

Chicago, M. and St. P. R. R., 298 Fed. 977 (Dist. Minn., 1924); *Winders v. Ill. Central R. R.*, (Minn.) 223 N. W. 291. While it is clear that a court of equity will not restrain the prosecution of a suit in a foreign jurisdiction unless a clear equity is presented. *Massie v. Watts*, U. S. 1810, 9 Cr. 148, 3 L. Ed. 181; it is equally clear that upon the showing of proper cause, a citizen of the state may obtain an injunction against another citizen of the same state enjoining the prosecution of an action in a foreign state. *Reeds' Admtx. v. Illinois Central R. R.*, 206 S. W. 794 (1918). However, such injunction may not be recognized by the courts where such action is being prosecuted, and this without violating the full faith and credit clause of the Constitution. *State ex rel. Bossung v. District Court*, (Minn.) 168 N. W. 589, 140 Minn. 494, 1 A. L. R. 145; *Frye v. Chicago, R. I. and P. R. R.*, 195 N. W. 629, 196 N. W. 280, 157 Minn. 52, appeal denied, 263 U. S. 723, 44 S. C. R. 231, 68 L. Ed. 525. See 39 Y. L. R. 719. This view, however, has not been recognized in some jurisdictions. *Fisher v. Pacific Mutual Life Ins. Co.*, 72 So. 846, 112 Miss. 30.

It is quite generally conceded that an equity court may act in restraining the prosecution of an action where it has jurisdiction of the parties. *Cameron & Co. v. Abbott*, 258 S. W. 563 (Texas); *Sandage v. Studebaker Co.*, 142 Ind. 148; *Cole v. Cunninham*, 133 U. S. 107; *Hawkins v. Ireland*, 64 Minn. 339, 67 N. W. 73. Such injunction is not a denial of one's access to the courts. *Kansas City R. R. Co. v. McCardle*, 232 S. W. 464.

It is also conceded that in deciding cases under the Employers' Liability Act (U. S. C. A. 51-59), the state courts have concurrent jurisdiction with the Federal courts. *Witort v. Chicago & N. W. R. R.*, 226 N. W. 934, 24 Ill. L. R. 467. But it is another question as to whether such jurisdiction is mandatory upon the state courts. Some jurisdictions have held that it is. *Bright v. Wheelock*, 20 S. W. (2d) 684, while a recent United States Supreme Court case holds it is not so, *Douglas v. N. Y., N. H. and H. R. R.*, 49 S. C. R. 355. Such an action in a foreign jurisdiction has been held not to be a burden on Interstate Commerce. *Hoffman v. Missouri*, 47 S. C. R. 485, although a contrary doctrine seems to have been laid down in *Davis v. Farmers' Cooperative Co.*, 262 U. S. 312. See Minn. L. R. 485. However, the later case does not lay down a hard and fast rule that an action can never be entertained by courts of a state in which the cause of action did not arise. If residence is not *bona fide*, but merely secured for the purpose of bringing the suit, the state court may decline jurisdiction. *Michigan Cent. R. R. v. Mix*, 278 U. S. 492. It should be noted, however, that a state could not enjoin the prosecution of the suit in a competent Federal court. *Chicago, M. and St. P. R. R. v. Schendel*, 292 Fed. 326 (C. C. A., 8th, 1923); *Clark v. Bankers' Trust Co.*, 164 N. Y. S. 544.

Contra to the instant case, there are recent decisions to consider. That a large number of witnesses reside in the state where the cause of action arose is not sufficient ground upon which an injunction may be granted. A clear case of oppression, fraud, or hardship, must be presented. *Missouri-Kansas R. R. v. Ball*, 271 Pac. 313 (Kans., 1929); *Chicago, M. & St. P. R. R. v. McGinley*, 175 Wisc. 565, 185 N. W. 218. The fact that a view by jurors of premises where the accident occurred may not be had

in the foreign state is not a hardship, oppression, or fraud as will warrant granting an injunction. *Missouri-Kansas R. R. v. Ball, supra.* It seems clear, however, that the instant case is in harmony with the weight of American authority. A. W. E.