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CONFLICTS BETWEEN STATE AND FEDERAL COURTS

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THE existence and operation of two separate and distinct systems of courts throughout the nation gives rise to many interesting questions of jurisdiction, brings about many irritating conflicts and requires the application of broad principles of comity and equity to determine whether, under given circumstances, one system will interfere with the process or judgments of the other.

The courts of each state have full jurisdiction of all classes and kinds of cases known to the law, and with few exceptions, may carry through to conclusion any case instituted in them. In the vast majority of cases the jurisdiction of the state courts is exclusive. The federal courts covering the same territory have exclusive jurisdiction given them in certain specified cases enumerated in the constitution or statutes, such as controversies between states, between citizens of the United States and foreign states, citizens or subjects, questions of admiralty or bankruptcy. In other classes of cases, such as for instance where jurisdiction is based upon diversity of citizenship, the jurisdiction may not be exclusive. Each system has by virtue of constitutional or statutory provisions of the state legislatures or Congress, full power and authority, both at law and equity, to carry through any litigation once started to its final conclusion and to give full effect to any judgments or decrees which may be entered.

With such a dual system of courts operating in the same territory, it is inevitable that conflicts shall arise and that one system or the other give way.

As said by Chief Justice Taft in *Ponzi v. Fessenden,* 258 *U. S.* 255:

> "We live in the jurisdiction of two sovereignties, each having its own system of courts to declare and enforce its laws in common territory. It would be impossible for such courts to fulfil their respective functions without embarrassing conflict unless rules were adopted by them to avoid it. The people for whose benefit these two systems are maintained are deeply interested that each system shall be effective and unhindered in its vindication of its laws. The situation requires, therefore, not only definite rules fixing the powers of the

courts in cases of jurisdiction over the same persons and things in actual litigation, but also a spirit of reciprocal comity and mutual assistance to promote due and orderly procedure."

It is the purpose of this paper to discuss, in the short space available, a few of the principles which have been worked out and the rules established as a result of 137 years of experience under the two systems.

Congress at a very early date recognized that embarrassing situations and conflicts might arise and in 1793 the second Congress passed a statute which has been in force ever since, and unchanged, known sometimes as Section 720 of the Revised Statutes, or more recently as Section 265 of the Judicial Code, which provides:—

"Section 265. The writ of injunction shall not be granted by any court of the United States to stay proceedings in any court of a state, except in cases where such injunction may be authorized by any law relating to proceedings in bankruptcy."

This language is explicit and definite and if applied literally there could be no injunctions granted in any case by a federal court enjoining or staying proceedings in a state court, only except in the case of the one exception noted in the statute, namely, bankruptcy proceedings. In 1793 when this statute was passed, all courts of equity had a well recognized right, which had frequently been exercised, to issue writs of injunction to stay proceedings pending in court, to avoid multiplicity of suits, to enable a defendant to avail himself of equitable defenses or obtain some form of equitable relief, and a court of equity of one state or country could enjoin its own citizens from prosecuting suits in another state or country. Congress obviously intended by this statute to limit the powers of the federal courts which they have previously enjoyed.

The Supreme Court of the United States, in the recent case of *Smith v. Apple,* 264 *U. S.* 274, has said that this statute is not a jurisdictional statute but that it is a limitation on the equity powers of the federal court and effects the particular form of relief that may be decreed in the particular bill before the court.

But this section does not stand alone. Section 262 provides:—

"Section 262. * * * The Supreme Court, the Circuit Courts of Appeal, and the District Courts shall have power to issue all writs not specifically provided for by statute, which may be necessary for the exercise of their respective jurisdictions and agreeable to the usages and principles of law."

So it has been frequently held that these various statutory provisions must be construed together in order to give them effect and to protect the federal jurisdiction which clearly exists in a large class of cases, for the federal courts have always had original cognizance of all suits of a civil nature, either at law or equity, arising under the constitution or laws of the United States, or where there is a controversy between citizens of different states. And if the federal court could not enjoin other proceedings under any circumstances, its powers would be seriously curtailed and its power to enforce its judgment and decrees be impaired in a most material aspect. The federal courts would find themselves powerless to prevent inroads on their jurisdiction made by state courts, and see their judgments or proceedings become lifeless and mere scraps of paper.

Consequently, it has been held that Section 265 must be construed along with the other statutory provisions, its broad language somewhat narrowed in its scope, and that no intention would be attributed to Congress to repeal a portion of the power expressly given to the federal courts. Accordingly, the statute has not been literally applied, and in unusual situations the federal courts have read into the statute other exceptions than the one expressly stated.

There are at least six classes of cases in which the federal courts will enjoin the activities of state courts, which have become well recognized.

I.

Probably the most familiar instance is where a suit, having been started in a state court, has been properly removed to the federal court. Upon removal the state court loses its jurisdiction and any further proceedings there would be void so the federal court will enjoin any further proceedings in the state court. If they did not do so, the right of removal would become a mere empty form. The federal courts early found it necessary to give relief in such cases in order to maintain their jurisdiction which had been expressly given them

by the removal statutes. Probably the best known case laying down this doctrine is *Madisonville Traction Company vs. St. Bernard Mining Co.,* 196 *U. S.* 239, 49 *L. ed.* 462.

II.

Another well settled class of cases is that where a federal court will enjoin the enforcement of a void judgment obtained in a state court, as for instance where the state court was without jurisdiction to enter the judgment. The argument has been advanced in this connection that the prohibition of Section 265 applies only to valid or legal proceedings of the state courts. The case of *Simon v. Southern Ry. Co.,* 236 *U. S.* 115, is an example of this classification, where the judgment was obtained in the state court without any notice to the defendant.

The federal court will likewise enjoin proceedings in a state court based on a void execution. *Sea Board Air Line v. Fowler,* 275 *Fed.* 239.

III.

Still another class of cases to which Section 265 does not apply is the enjoining by the federal courts of the enforcement of judgments obtained in a state court by fraud or sharp practice, such that it would be inequitable to enforce the judgment. In such cases, although the state court had jurisdiction to enter the judgment, still the plaintiff is denied the benefits and fruits of his efforts. Such a case was *Marshall v. Holmes,* 141 *U. S.* 589.

And injunctive relief has been granted where a judgment was obtained through accident or mistake. *National Surety Co. v. State Bank,* 120 *Fed.* 593.

As said in *Smith v. Apple,* 6 *Fed.* (*2nd*) 559:

> "In short, the national courts 'have the same jurisdiction and power to enjoin a judgment plaintiff from enforcing an unconscionable judgment of a state court, which has been procured by fraud, accident or mistake, that they have to restrain him from collecting a like judgment of a federal court'. National Surety Co. v. State Bank, 120 Fed. 593, 602.

Here in such cases it has been argued that the aggrieved party had an adequate remedy in the state courts which would protect him, or that he could appeal the case to a higher state court for relief. But the federal courts have held consistently that it is not sufficient that there be a remedy in a state court—

the remedy to be adequate must be in the federal court where the relief is prayed. See a decision of Judge Sanborn in the eighth Circuit,—*National Surety Co. v. State Bank,* 120 *Fed.* 593.

It has been argued that such a suit was in violation of the Constitution, and a denial of full faith and credit to the judicial proceedings of the state. But the courts have held that the relief in such cases does not interfere with the state proceeding, that the judgment is left in its full vigor, but the plaintiff is enjoined personally from enforcing the judgment, as the injunction acts only on the party, and not on the court; that the "proceedings" referred to in the statute have ripened into a judgment and are at an end, and that the suit of the plaintiff in the federal court is an entirely new and independent suit.

In the case of void judgments, it has been said they are completely nugatory and hence not a "proceeding" within the prohibition of Section 265.

But such arguments are obviously an attempt to get around and explain away the language of the statute. Jurisdiction of a court is not exhausted by the rendition of a judgment—it continues until the judgment is satisfied and the successful party is rewarded by getting what he started after—the fruits of a judgment. As a practical matter the proceedings of the state court are affected by the injunction, and its machinery is effectually blocked. If the proceeding sought to be enjoined is not before a court of a state, then it does not come within the prohibition of the statute and the federal court may clearly give relief. So bodies such as railroad or utility commissions, which act in a legislative or administrative capacity, may be enjoined, unless they are exercising purely judicial functions. See *Bacon v. Rutland R. R.* 232 *U. S.* 134. Close questions arise and nice distinctions are made in determining whether the body is acting in a legislative or judicial capacity.

IV.

Another exception is found in the case of *U. S. v. Inaba,* 291 *Fed.* 416, where a federal court restrained a state court from disposing of certain crops in order that the federal government, as landlord under a lease, might collect rent due and

foreclose its landlord's lien,—an instance where the federal court protected the property of the government at the expense of the proceedings in the state court.

V.

Probably the most common instance of injunction occurs where the federal court first acquires jurisdiction over specific property and then enjoins a later proceeding affecting the *res* in a state court. Here the familiar rule is applied, which is not limited to conflicts between state and federal courts, that the first court to obtain jurisdiction of the *res* shall have exclusive jurisdiction until the controversy is concluded. The rule applies in suits to enforce liens, marshall assets, administer trusts, liquidate insolvent estates and similar cases.

As said in *Covell v. Heyman,* 111 *U. S.* 176:

> "When one takes into its jurisdiction a specific thing, that res is as much withdrawn from the judicial power of the other as if it had been carried physically into a different territorial sovereignty."

And the rule works both ways—if the state court first acquires jurisdiction over the *res,* then the federal court cannot give relief. The case of *Julian v. Central Trust Co.,* 193 *U. S.* 93, gives an example of this rule. A federal court had adjudicated a title and decreed a sale of specific property. A state court later attempted to attack this title and was enjoined by the federal court.

A distinction which some courts have failed to note must be made between proceedings *in personam* and *in rem.* If *in personam* only then there may be suits pending in both state and federal courts to obtain the same relief, going on independently without interference from the other, and although this may inconvenience the parties, it is a question merely of which court will first proceed to judgment—once the judgment is obtained, in either court, that court can then enjoin further proceedings in the other.

An interesting claim was made in a recent case where plaintiff, because of diversity of citizenship, saw fit to press his claim *in personam* in the federal court. When his opponent started a later suit in the state court and was showing ability to get speedy justice, the plaintiff sought to restrain him on the ground that he was being deprived of a constitutional

right to have his matter tried in the federal court. But the Supreme Court in *Kline v. Burke Const. Co.,* 43 *Sup. Ct. Rep.* 79, held that a right which may be given and taken away by Act of Congress cannot be protected as a constitutional right; that a plaintiff in an action *in personam* had no constitutional right to a trial in the federal court, and that the federal court would only protect its jurisdiction where a *res* is involved. There is clearly a multiplicity of suits over the same claim, but the courts have held that nevertheless the statute prevented the court from giving the usual equitable relief in such cases.

VI.

Where the petitioner is being restrained of his liberty by officials of a state under indictment or conviction for violation of a statute which is in violation of the federal constitution, the federal court will stay proceedings of the state court until it can decide the right to habeas corpus.

In *Ex Parte Royall,* 117 *U. S.* 242, it was held that under such circumstances the federal court would discharge the prisoner in advance of trial in the state court, where there were special circumstances requiring immediate action. In these habeas corpus cases Section 33 of the Federal Code is a further aid to the court, as it provides that pending the determination of the habeas corpus proceedings, any further proceedings in the state court are null and void.

VII.

Another well defined exception is found in cases where the federal court will enjoin the threatened enforcement of a criminal statute which is in violation of the federal constitution, where property rights are being destroyed or seriously impaired. In such cases it has been argued that the injunction against the Attorney General is a suit against the state and therefore in violation of the Eleventh Amendment to the Constitution. But it is now settled that such suits are not against the state, but against individuals charged with the administration of a state law, and if that law is unconstitutional, they have no justification for their activity. But here again, from a practical standpoint, the state has been interfered with—as the state can only act through its officers and agents, who are

subjected to the process of the federal court, the state has become a party defendant and is prevented from doing what it plans to do.

The case of *Ex Parte Young,* 209 *U. S.* 123, is the leading authority for this exception. Here the Attorney General of the State was threatening to enforce an unconstitutional statute and he was enjoined from proceeding under the statute.

But injunction will not lie from a federal court to restrain a criminal proceeding actually pending in a state court although there is a definite threat of a multiplicity of future proceedings and a forfeiture of a corporate charter, as determined in the case of *Foster Cline v. Frink Dairy Co.,* 274 *U. S.* 445; 71 *L. ed.* 1146, reversing 9 *Fed.* 2nd. 176 on this point.

In an early case, *Riggs v. Johnson,* 73 *U. S.* 6, it was sanguinely asserted that the respective spheres of action of the state and federal courts were as clearly marked as if the line of division between them "was traced by landmarks and monuments visible to the eye", and that the proceedings of one was beyond the reach of the other. But the authorities cited above show that the writer of this phrase was speaking figuratively. There is a prohibition against the federal courts interfering with state courts, but there are exceptions to the rule, which have grown up through the years as necessity and unusual situations have demanded relief. Yet it is generally realized that comity and orderly administration of justice in the great majority of cases demand that each court shall be allowed to carry on its functions without interference from the other.

FOUND!

Dicta is informed that a volume of Corpus Juris has been found, apparently *sans* owner and all clues. Any reader who feels he can establish his ownership to said volume should notify Dicta, at 802 Midland Savings Building. Dicta suggests that readers check their sets of Corpus Juris before claiming the above volume.