SOUTHERN RAILWAY CO. *v.* PAINTER, ADMINISTRATRIX.

CERTIORARI TO THE CIRCUIT COURT OF APPEALS FOR THE EIGHTH CIRCUIT.

No. 24. Argued October 20, 21, 1941.—Decided November 17, 1941.

Section 265 of the Judicial Code forbids a federal court to enjoin proceedings in a state court though such injunction be in support of a suit, under the Federal Employers' Liability Act, begun earlier and then pending in the federal court. P. 159.

117 F. 2d 100, reversed.

CERTIORARI, 313 U. S. 556, to review the affirmance of a decree of injunction.

Mr. Sidney S. Alderman, with whom *Messrs. H. O'B. Cooper, Rudolph J. Kramer, Bruce A. Campbell,* and *S. R. Prince* were on the brief, for petitioner.

Mr. Roberts P. Elam, with whom *Mr. Mark D. Eagleton* was on the brief, for respondent.

The federal District Court had jurisdiction, as to both subject matter and parties, over the action under the Federal Employers' Liability Act.

That the plaintiff under § 6, as amended, had an unqualified right to bring the action in the federal court in Missouri, is plain from the language and the legislative history of that section.

This right to select the forum is an absolute federal right. *Second Employers' Liability Cases,* 223 U. S. 1, 58; *Hoffman* v. *Missouri ex rel. Foraker,* 274 U. S. 21; *McKnett* v. *St. Louis & S. F. R. Co.,* 292 U. S. 230; see, also, *Missouri ex rel. St. Louis, B. & M. R. Co.* v. *Taylor,* 255 U. S. 200.

The Tennessee Chancery Court was without jurisdiction of the subject matter of the Railway's complaint. Its injunction was unauthorized and void.

Where the state and federal courts have concurrent jurisdiction, the plaintiff has the absolute right to elect the forum in which he will bring his action.

When a federal court is properly appealed to in a case over which it has by law jurisdiction, it is not only the right, but the duty, of that court to take and exercise jurisdiction. Dist'g *Canada Malting Co.* v. *Paterson Steamships, Ltd.*, 285 U. S. 413; *Penn General Casualty Co.* v. *Pennsylvania*, 294 U. S. 189; *Pennsylvania* v. *Williams*, 294 U. S. 176; and *Harkin* v. *Brundage*, 276 U. S. 36.

The doctrine of *forum non conveniens* is one which is applicable only by a court to a case pending before it, as the decisions relied upon by petitioner railway well illustrate; it cannot be applied by one court to a case pending before a court in another jurisdiction—and petitioner railway made no attempt to have the federal District Court below apply that doctrine to this respondent's case, but, on the contrary, sought a "back-handed" application of the doctrine by the state court of Tennessee. In the second place, the doctrine of *forum non conveniens* is not to be applied merely upon considerations of convenience or expense, but is to be applied only where the trial of the cause in the forum in which it is pending will produce an injustice. In the third place, the doctrine of *forum non conveniens* is never to be applied where it will result in an injustice to the plaintiff.

The courts of a State have no authority or jurisdiction to restrain or enjoin proceedings in the federal courts.

A court of equity, in a proper case and to prevent harassing, vexatious and inequitable consequences, may restrain and enjoin parties within its jurisdiction from instituting or prosecuting proceedings in the courts of other jurisdictions. *Cole* v. *Cunningham*, 133 U. S. 107. But that doctrine is subject to the exception, based upon necessity, that state courts cannot enjoin parties from proceeding in federal courts. The doctrine applies only in cases

where both parties to the proceedings in the foreign court are residents within the jurisdiction of the court of equity wherein relief is sought from the prosecution of the proceeding in the foreign court.

Furthermore, the effect of the specific provision of the Federal Employers' Liability Act is to supersede the law of the States, common law as well as statutory.

The injunction by the Tennessee Chancery Court, without authority, undertook (1) to deprive respondent entirely of her right to bring her action in the federal court at the place first provided for by the Act, *viz.*, in the district of the residence of petitioner railway at Richmond, Virginia; (2) to impair and limit the right of respondent to bring her action in a federal court in the places last provided for by the Act, *viz.*, the various federal districts in which the petitioner railway was doing business; and (3) to direct respondent to bring her action in the federal court at a place not provided for by the Act, *viz.*, the district of plaintiff's residence, where the railway might not be doing business.

That the employee's election of a venue may cause, incidentally, a burden on interstate commerce, cannot affect his right to make it, pursuant to the Act.

The general rule that, ordinarily, an administrator or executor cannot sue or be sued in his official capacity in the courts of a jurisdiction foreign to that from which he derives his authority, is without application to an administrator or executor who brings an action under the Federal Employers' Liability Act.

Respondent did not bring her action in the federal District Court in Missouri by virtue of her inherent right as the representative of the estate of her decedent, but by virtue of her designation by the federal statute as trustee for designated dependent survivors of the decedent and for them alone.

The injunction of the Chancery Court is not entitled to "full faith and credit." The District Court had occa-

sion and power and authority to grant the injunction against the railway.

No state or federal court, other than the federal District Court below in Missouri, is open or available to respondent for the prosecution of her cause of action, for the injury to and death of her decedent, because the two-year time limitation of the Act (before the amendment of § 6) applies, and the time has expired.

MR. JUSTICE FRANKFURTER delivered the opinion of the Court.

On August 31, 1939, respondent brought an action against petitioner in the federal District Court for the Eastern District of Missouri to recover damages under the Federal Employers' Liability Act, 35 Stat. 65; 45 U. S. C. § 51 *et seq.*, for the wrongful death of her husband while employed by petitioner as a fireman on an interstate train operated between points in Tennessee and North Carolina. While this action was pending, petitioner filed a bill in the Chancery Court of Knox County, Tennessee, alleging that respondent and the deceased were citizens of Tennessee; that petitioner, a Virginia corporation having its principal office in Richmond, Virginia, does no business in Missouri other than of an interstate character; that the accident occurred in Madison County, North Carolina, "just beyond the North Carolina-Tennessee line"; that the Missouri federal court is more than 500 miles distant from respondent's residence, the residence of petitioner's witnesses, and the place where the accident occurred; that petitioner could not transport its witnesses to Missouri except at "enormous expense"; that respondent's purpose in bringing suit in Missouri was to evade the law of Tennessee and North Carolina; and that petitioner maintains agents in Tennessee and North Carolina upon whom process can be served. The chancellor thereupon enjoined respondent from further prosecuting her action in the

Missouri federal court and from instituting any similar suits against petitioner except in the state and federal courts in Tennessee and North Carolina. Respondent did not appeal from this decree. Instead, she filed a "supplemental bill" in the Missouri federal court to enjoin the proceedings in the Tennessee state court. Holding that the commencement of respondent's action for damages gave the federal court "specific, complete, sole and exclusive jurisdiction" which could not be "intrenched upon" by proceedings in another court, the District Court, by an appropriate interlocutory decree, forbade petitioner from further prosecuting its suit in the Tennessee state court and ordered it to dismiss the state suit. This decree was affirmed by the Circuit Court of Appeals for the Eighth Circuit, 117 F. 2d 100. We brought the case here, 313 U. S. 556, in view of the relation of its jurisdictional problems to those in *Toucey* v. *New York Life Insurance Co.* and *Phoenix Finance Corp.* v. *Iowa-Wisconsin Bridge Co.*, *ante*, p. 118.

The limitations imposed on the power of the federal courts by § 265 of the Judicial Code, as we have applied them this day in the *Toucey* and *Phoenix* cases, *supra*, govern the disposition of this case. The restrictions of § 265 upon the use of the injunction to stay a litigation in a state court confine the district courts even though such an injunction is sought in support of an earlier suit in the federal courts. Congress has endowed the federal courts with such protective jurisdiction neither generally nor in the specific instance of claims arising under the Federal Employers' Liability Act. Ever since the Act of March 2, 1793, 1 Stat. 334, § 5, Congress has done precisely the opposite. Because of its views of appropriate policy in the interplay of state and federal judiciaries, Congress has forbidden the exclusive absorption of such litigation by the federal courts. If a state court proceeds as the Chancery

Court of Tennessee acted, the ultimate vindication of any federal right lies with this Court.

The District Court was here without power to enjoin petitioner from further prosecuting its suit in the Tennessee state court.

Reversed.

The CHIEF JUSTICE, MR. JUSTICE ROBERTS and MR. JUSTICE REED, concurring:

The reasons which led to dissent in *Toucey* v. *New York Life Insurance Co.*, and *Phoenix Finance Corp.* v. *Iowa-Wisconsin Bridge Co.*, *ante*, p. 118, do not exist in this case. There is no federal decree and therefore no need of an injunction to protect the decree or prevent relitigation.

EDWARDS *v.* CALIFORNIA.

APPEAL FROM THE SUPERIOR COURT OF CALIFORNIA IN AND FOR THE COUNTY OF YUBA.

No. 17. Argued April 28, 29, 1941. Reargued October 21, 1941.—Decided November 24, 1941.

1. Transportation of persons from one State into another is interstate commerce. P. 172.
2. A statute of California making it a misdemeanor for anyone knowingly to bring or assist in bringing into the State a nonresident "indigent person," *held* invalid as an unconstitutional burden on interstate commerce. P. 174.

For the purposes of this case it is assumed that the term "indigent person," though not confined to the physically or mentally incapacitated, includes only persons who are presently destitute of property and without resources to obtain the necessities of life, and who have no relatives or friends able and willing to support them. P. 172.

How far the regulatory power of Congress extends over such transportation, and whether the attempted state regulation is also prohibited by other provisions of the Constitution, are questions not decided in this case and upon which the majority of the Court expresses no opinion. Pp. 176, 177.