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Civil Procedure - Power of State to Enjoin Its Citizens from Suing in Another State Under the Federal Employers' Liability Act

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CIVIL PROCEDURE—POWER OF STATE TO ENJOIN ITS CITIZENS FROM SUING IN ANOTHER STATE UNDER THE FEDERAL EMPLOYERS' LIABILITY ACT—Petitioner was injured in the course of employment with respondent, an interstate railroad, in Ben Hill County, Georgia, the residence of petitioner. Invoking the Federal Employers' Liability Act,[1] petitioner filed suit in Jefferson County, Alabama, where respondent was doing business. Respondent, relying on section 1404(a) of the Judicial Code,[2] initiated an equity action in Ben Hill County, Georgia, to restrain petitioner from continuing his action in Alabama. The trial court sustained a demurrer to respondent's petition. The Georgia Supreme Court reversed, holding that Georgia law gave its courts power to prevent its citizens from bringing vexatious suits.[3] On certiorari from the Supreme Court of the United States, *held*, reversed. Under the Federal Employers' Liability Act the employee had a transitory cause of action, and section 1404(a), which authorizes a federal court to transfer a case on grounds of forum non conveniens, does not give the same power to a state court; hence, the Georgia court had no power to restrain the employee from bringing the Alabama action. *Pope v. Atlantic Coast Line R. Co.*, 345 U.S. 379, 73 S.Ct. 749 (1953).

[1] 35 Stat. L. 66 (1909), as amended, 45 U.S.C. (Supp. V, 1952) §56.

[2] 28 U.S.C. (Supp. V, 1952) §1404(a) provides: "For the convenience of the parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought."

[3] Atlantic Coast Line R. Co. v. Pope, 209 Ga. 187, 71 S.E. (2d) 243 (1952).

Section 6 of the Federal Employers' Liability Act provides that an employee may bring his action wherever the employer is doing business. In *Miles v. Illinois Central R. Co.*[4] the Supreme Court decided on facts very similar to those in the principal case that section 6 prevents state courts from enjoining oppressive suits brought by its citizens in courts of other states. The respondent in the principal case conceded this point but contended that Congress overruled the *Miles* case by adopting section 1404(a) of the Judicial Code. After the enactment of section 1404(a) the Supreme Court held that cases brought in federal courts under the FELA are subject to transfer on grounds of forum non conveniens as provided by that section.[5] According to the doctrine of forum non conveniens a court which has jurisdiction of the parties may dismiss the action where the forum is not the most appropriate one for the convenience of the parties and witnesses and for the furtherance of justice.[6] Respondent argued further that the decision in *Baltimore & O. R. Co. v. Kepner,*[7] which held that a state court could not enjoin one of its residents from prosecuting an FELA action in a distant federal court, also was overruled by section 1404(a). In the reviser's note to section 1404(a)[8] it was said that the *Kepner* case exemplified the inequitable situation which could be alleviated by application of section 1404(a). However, the Court in the instant case interpreted this note as meaning only that "it was the power of the federal court to transfer, and not the power of the state court to enjoin, which was the remedy envisioned for any injustice wrought by §6 in the *Kepner* case."[9] In a vigorous dissent, Justice Frankfurter argued that the legislative history indicated that the *Kepner* case was explicitly mentioned as an example of the type of case section 1404(a) would affect. The position taken by Justice Frankfurter reached the more desirable conclusion; however, the language of section 1404(a) seems to preclude such an interpretation since it pertains only to federal courts. The decision in the principal case shows the need for an amendment to section 6 of the FELA to give the defendant some measure of protection from oppressive suits, on grounds of forum non conveniens.

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[4] 315 U.S. 698, 62 S.Ct. 827 (1942).

[5] Ex parte Collett, 337 U.S. 55, 69 S.Ct. 944 (1949).

[6] See Gulf Oil Corp. v. Gilbert, 330 U.S. 501, 67 S.Ct. 839 (1947).

[7] 314 U.S. 44, 62 S.Ct. 6 (1941).

[8] H. Rep. No. 308, 80th Cong., 1st sess., p. A132 (1947); 28 U.S.C. (Supp. V, 1952) §1404(a).

[9] Principal case at 385.