

The verdict is for \$2,849.52, and exceeds the value of the notes converted by the sum of \$499.48. This calculation is made by adding protest fees found to amount of verdict, and offsetting interest. A verdict will not be disturbed in this court as contrary to the evidence when there was testimony before the jury which, if credited, will support the verdict. In this case there was sufficient before the jury to warrant a verdict for the full amount of the converted notes, but for no greater sum. In finding a verdict for \$2,849.52, and interest, the jury went beyond the evidence to the amount of \$499.48, and to that extent disregarded the charge of the court. Except for this excess, the verdict does substantial justice between the parties. If there is any real dispute as to the 1,900-dollar remittances, the plaintiffs can take the new trial offered.

The following order will be entered on the motions for a new trial and in arrest of judgment:

For the written reasons on file, it is ordered and adjudged that a new trial be granted in this case, unless the plaintiffs, within 10 days from the filing hereof, shall write off from the verdict and judgment in the sum of \$499.48, with interest thereon from November 15, 1881. In case such remitter is entered within the delay aforesaid, the said motions for a new trial and in arrest of judgment are overruled and discharged. with costs.

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HENRY and another v. GOLD PARK MINING CO.\*

(Circuit Court, D. Colorado. March 28, 1883.)

GARNISHMENT.

A judgment of one court is not attachable under process issued out of another court.

One John W. Bailey sued the plaintiff Henry in one of the courts of the state of Colorado, and, having caused a writ of attachment to issue, served process of garnishment upon the defendant, the Gold Park Mining Company. The garnishee answered, admitting that it is indebted to plaintiff Henry in the sum of \$4,942.47 on a judgment against him in this court, in this cause, and thereupon moved this court to stay execution upon the judgment until the matter of its liability in the state court can be determined. This is the motion now to be considered.

\*From the Denver Law Journal.

*Wells, Smith & Macon*, for the motion.

*Samuel T. Rose* and *Chas. J. Hughes*, *contra*.

McCARY, J. The only question which I deem it necessary to consider is whether a debtor by judgment in a federal court can be subjected to garnishment at the suit of a creditor who proceeds against him in a state court. Whatever the rule may be with respect to the garnishment of a judgment debtor in the same court in which the judgment was rendered, I am of the opinion that it would lead to great inconvenience and to serious conflict of jurisdiction to hold that a judgment in one court may be attached by garnishment in another, especially where the two courts are of different jurisdiction, as in the case before us, and the decided weight of authority sustains this view. *Drake*, Attachm. § 625; *Young v. Young*, 2 Hill, (S. C.) 426; *Burrill v. Letson*, 2 Speers, 378; *Wallace v. McConnell*, 13 Pet. 136; *Wood v. Lake*, 13 Wis. 94; *Thomas v. Wooldridge*, 2 Wood, 667, (opinion by Mr. Justice BRADLEY;) *Franklin v. Ward*, 3 Mason, 136; *Freeman*, Ex'ns, § 166.

Upon these authorities, as well as upon what I conceive to be much better reason, I am constrained to hold that a judgment in this court cannot be attached in a proceeding in a state court, and this ruling is conclusive of the motion to stay execution, which, without considering the other questions raised, must be overruled. Ordered accordingly.

DENVER & N. O. R. Co. v. ATCHISON, T. & S. F. R. Co.\*

(Circuit Court, D. Colorado. February 24, 1883.)

1. RAILROADS—CONTRACT NOT TO DO BUSINESS AT CERTAIN POINTS.

A contract by which one railway company agrees with another upon a division of territory and traffic between them, and that one will not "do any through business to and from Trinidad, or to and from New Mexico via Trinidad or El Moro," amounts to an express renunciation of a duty of transportation enjoined by the state, and is therefore void.

2. SAME—COMBINATION—CONTRACT NOT TO DO BUSINESS IN CONNECTION WITH RIVAL COMPANY.

A contract by which two railway companies agree to exchange their traffic, and not to "connect with or take business from or give business to any railroad" which may be constructed in Colorado or New Mexico after the date of the agreement, is against public policy and void.

3. SAME—DISCRIMINATION—INJUNCTION.

If such companies refuse to accept "through" freight and passengers from a third company, whose road has been built in the territory specified in the

\*Reported by Adelbert Hamilton, Esq., of the Chicago bar.