

which it cannot grant full relief, or in which it may be brought into unnecessary conflict with the courts of the state.

While maintaining with firmness the jurisdiction conferred upon us by law, we shall never provoke conflicts by any encroachment upon the rights and powers of co-ordinate tribunals.

Under the statutes of the state as they now stand, the complainants have an ample remedy by commencing their proceedings in the probate court, and, if unsuccessful there, by prosecuting their appeal; while, so far as this court is concerned, it has clearly no jurisdiction over most of the matters complained of in the bill and amended bill, and as to the others the question of jurisdiction is, to say the least, extremely doubtful. Under these circumstances, the plea to the jurisdiction will be sustained; and it is so ordered.

DUNDY, J., concurs.

See *Domestic & Foreign Missionary Soc. v. Hinman*, 13 FED. REP. 161, and note, 167.

GRAVELLE v. MINNEAPOLIS & St. LOUIS RY. Co.

(Circuit Court, D. Minnesota. January, 1882.)

STATE STATUTE AS RULE OF DECISION—SECTION 721, REV. ST.—ADMISSION OF DEPOSITIONS.

Where depositions taken to be used in an action in a state court that has been dismissed would be admissible as evidence under the statute of the state in another suit subsequently brought, and such second suit, after being brought, has been removed from the state court into the United States circuit court, under the provision of section 721 of the Revised Statutes, such depositions are admissible in the circuit court.

At Law, for personal injuries.

C. K. Davis, for plaintiff.

James D. Springer, for defendant.

McCARY, J. Section 721 of the Revised Statutes of the United States provides that the laws of the several states, except where the constitution, treaties, or statutes of the United States shall otherwise require or provide, shall be regarded as rules of decision in trials at common law in the courts of the United States in cases where they apply. This provision embraces and requires the federal courts to follow the statutes of the several states which prescribe rules of evidence, except where otherwise provided by the federal constitution or

laws. *McNiell v. Holbrook*, 12 Pet. 84; *Vance v. Campbell*, 1 Black, 427; *Wright v. Bales*, 2 Black, 535; *Dibblee v. Furniss*, 4 Blatchf. 262; *Hausknecht v. Claypool*, 1 Black, 431; *Lucas v. Brooks*, 18 Wall. 436; *Best v. Polk*, 18 Wall. 112; *Sims v. Hundley*, 6 How. 1; *Brandon v. Loftus*, 4 How. 127; *Palmer v. Low*, 98 U. S. 1.

Section 29, c. 73, St. Minn., provides that "when the plaintiff in any action discontinues it, or it is dismissed for any cause, and another action is afterwards commenced for the same cause between the same parties, or their representatives, all depositions lawfully taken for the first action may be used in the second, in the same manner and subject to the same conditions and objections as if originally taken for the second action: provided, that the deposition has been duly filed in the court where the first action was pending, and remained in custody of the court from the termination of the first action until the commencement of the second."

This statute will be followed as a rule of decision in this court in accordance with the long line of adjudications above cited. This renders it unnecessary to decide whether the same ruling is required by the provisions of section 914 of the Revised Statutes of the United States.

The objection to the depositions is overruled.

See *Soustiby v. Keeley*, 11 FED. REP. 578, and note, 580.

GRAY and others, doing business under the firm name of TAPER-SLEEVE PULLEY WORKS, Citizens of the State of Pennsylvania, v. TAPER-SLEEVE PULLEY WORKS, a Corporation of the State of Iowa.

(Circuit Court, W. D. Pennsylvania. May Term, 1883.)

1. TRADE NAME—RIGHT TO SELL ARTICLE—INJUNCTION.

C., under the style of A. B. Cook & Co., was engaged for several years at Erie, Pennsylvania, in the manufacture and sale of sundry patented devices, to one of which he gave the name "taper-sleeve pulley," displaying on his factory the sign, "Taper-sleeve Pulley Works." In 1876 his establishment was sold by the sheriff to W., to whom C. assigned his patents. W. soon sold the establishment to one of the complainants, with the exclusive right to said patents for the territory east of the Mississippi river, and the right also to sell the devices west of said river upon the payment of certain royalties, W. reserving to himself and assigns the right to sell on like terms east of said river. The complainants adopted as their trade name the designation "Taper-sleeve