

the suit involves is between citizens of different states, and therefore the right of removal exists.

The other ground upon which it is sought to remand the suit, namely, that a demurrer was filed in the state court prior to the petition and bond for removal, I think untenable. The express provision of the aforesaid act of congress of August 13, 1888, is that the petition for removal may be filed "at the time, or any time before the defendant is required by the laws of the state or the rules of the state court in which such suit is brought to answer or plead to the declaration or complaint of the plaintiff." 1 Supp. Rev. St. p. 613. By the laws of California, the defendant is required to appear and answer the complaint within 30 days, where the summons is served outside of the county in which the action is brought. Code Civ. Proc. Cal. § 407. In the present case, summons was served in San Francisco on the 27th day of June, 1896, and the petition for removal was filed on the 24th day of July, 1896. The fact that the petition was accompanied, or even preceded, by a demurrer, does not prejudice or in any way affect the right of removal. Motion to remand is denied.



INTERNATIONAL BRIDGE & TRAMWAY CO. et al. v. HOLLAND TRUST CO.

(Circuit Court of Appeals, Fifth Circuit. May 18, 1897.)

No. 559.

FEDERAL COURTS — JURISDICTION — FORECLOSURES — PROPERTY IN FOREIGN COUNTRY.

In foreclosing a mortgage on a bridge connecting a state of the Union with a foreign country, a federal court of equity in such state has jurisdiction to foreclose the entire lien, including that covering the franchises and property lying in such foreign country. *Muller v. Dows*, 94 U. S. 444, followed.

Appeal from the Circuit Court of the United States for the Western District of Texas.

This was a suit in equity by the Holland Trust Company, a corporation organized under the laws of New York, against the International Bridge & Tramway Company and others, to foreclose a mortgage upon a toll bridge across the Rio Grande river between the city of Laredo, Tex., and the city of Nuevo Laredo, in the republic of Mexico, and upon the approaches thereto, and all of the bridge company's premises, property, franchises, etc. The International Bridge Company was chartered by the state of Texas, and had a concession and contract from the government of Mexico, and a grant from the congress of the United States, together with the necessary county and municipal permits and ordinances. After a hearing of the cause on the merits, the circuit court entered a decree foreclosing the mortgage as to all the property, franchises, etc., of the mortgagor company. From this decree the defendants have appealed, assigning for error that the court had no jurisdiction to foreclose the lien of the mortgage upon that part of the property, rights, and franchises of the company lying within the republic of Mexico.

Oscar Bergstrom, for appellants.

Winchester Kelso and Geo. M. Van Housen, for appellee.

Before PARDEE and McCORMICK, Circuit Judges, and NEWMAN, District Judge.

PER CURIAM. The assignment of error in this case is not well taken. *Muller v. Dows*, 94 U. S. 444. The decree appealed from is affirmed.

AMERICAN STRAWBOARD CO. v. INDIANAPOLIS WATER CO.

(Circuit Court of Appeals, Seventh Circuit. February 9, 1894.)

APPEAL—INJUNCTION—SUPERSEDEAS.

In general a circuit court of appeals will not, pending an appeal, suspend an injunction, previous to the hearing on the merits, after the trial judge has refused to grant a supersedeas.

Appeal from the Circuit Court of the United States for the District of Indiana.

Edwin Walker and John W. Kern, for appellant.
Albert Baker and James L. High, for appellee.

Before JENKINS, Circuit Judge, and GROSSCUP and SEAMAN, District Judges.

JENKINS, Circuit Judge. The appellee, a corporation organized for the purpose of supplying the city of Indianapolis with water, filed its bill in the court below to restrain the defendant (appellant here) from polluting the waters of the White river, its source of supply. A decree passed in favor of the complainant, perpetually enjoining the pollution of the stream, as charged. The opinion of the court may be found in 57 Fed. 1000. The appellant brings that decree here for review. In advance of the hearing, the appellant moves the court for an order suspending, during the appeal, the operation of the injunction directed by the final decree. A similar motion was presented to the court below, but was denied. We entertain no question of the inherent power of this court to grant a supersedeas in case of appeal from a final decree. In *Leonard v. Land Co.*, 115 U. S. 465, 6 Sup. Ct. 127, such power in the appellate court is recognized and asserted as beyond question. It was there stated, however, that that court, finding that indulgence of the power would frequently involve an examination of the whole case, and necessarily take much time of the court, adopted its present equity rule 93, which provides as follows:

“When an appeal from a final decree in an equity suit granting or dissolving an injunction, is allowed by a justice or judge who took part in the decision of the cause, he may in his discretion, at the time of such allowance, make an order suspending or modifying an injunction during the pendency of the appeal, upon such terms, as to bond or otherwise, as he may consider proper for the security of the rights of the opposite party.”

It is thus apparent that the supreme court, while asserting its power, deemed it advisable to rest the discretion to suspend the operation of a writ of injunction pending appeal from final decree with the trial judge, and established the rule that in general the appellate court would not, pending the appeal and in advance of a decision by that