

as already seen, solely for the purpose of protecting and conserving the jurisdiction of the federal courts in appropriate cases, cannot, in my opinion, be extended so as to vest in the federal judiciary the power to grant an injunction in violation of the express language of the section, for the purpose of placing its own interpretation upon the force and effect of evidence which may be offered as a defense to another suit on a cause of action different from that in which it rendered the judgment. *Dial v. Reynolds*, 96 U. S. 340; *Sargent v. Helton*, 115 U. S. 348, 6 Sup. Ct. 78.

Again, it is not necessary to exercise the jurisdiction now invoked in order to secure to the complainant the full benefit of the constitutional provision requiring full faith and credit to be given in each state to the public acts, records, and judicial proceedings of every other state. It is familiar doctrine that this constitutional provision requires full faith and credit to be given in each state to the judicial proceedings of federal courts, as well as courts of the state. Therefore, when the state suits now under consideration shall be brought on for trial, it will be the duty of the state court to give full faith and credit to the judgment of this court rendered in the federal suit; and whether such due effect be given to the judgment of this court will be a federal question, and, if decided against the complainant in this case, may be taken to the supreme court of the United States on a writ of error. *Crescent City Live-Stock Co. v. Butchers' Union Slaughter-House Co.*, 120 U. S. 141, 7 Sup. Ct. 472.

For the foregoing reasons, I am of the opinion that the complainant is not entitled to a temporary injunction to restrain the prosecution of the two cases already instituted against it in the circuit court of Buchanan county, as prayed for in its bill.

By agreement of the parties the other question presented by the pending motion will be disposed of on final hearing.

FRENCH et al. v. UNION PAC. RY. CO. et al.

(Circuit Court, S. D. New York. February 22, 1899.)

RECEIVERS — SUIT AGAINST IN ANOTHER JURISDICTION — POWER OF COURT TO CONTROL ACTION.

A court has no jurisdiction in a suit by a creditor of an insolvent corporation against receivers appointed by another court, though the suit is brought by leave of such court, to compel the receivers to pursue any particular course for the recovery of property or assets of the corporation, nor to control them in the management of the property, as such matters belong exclusively to the court, and in the cause in which they were appointed.¹

This was a suit in equity by Josiah B. French and others against the Union Pacific Railway Company, its receivers, and others. Heard on demurrer of the receivers to the bill.

George H. Yeaman, for plaintiffs.

Artemas H. Holmes, for defendants.

¹ As to suits by and against receivers of federal courts, see note to *Plow Works v. Finks*, 26 C. C. A. 49.

WHEELER, District Judge. The orators are alleged to be, respectively, holders of mortgage bonds of the Leavenworth, Topeka & Southwestern Railway Company, guarantied by the defendant the Union Pacific Railway Company, upon which they are compelled to rely for security, and against which two of them have obtained judgments upon their respective guaranties, in the city court of the city of New York, that remain unsatisfied. Several of the defendants are receivers of the Union Pacific Railway Company; and several others are a reorganization committee in the formation of the Union Pacific Railroad Company, as the successor of the Union Pacific Railway Company. The bill further alleges that but 16 per cent. of the subscriptions to the capital stock of the Union Pacific Railway Company was paid in; that many millions of stocks and bonds owned by the Union Pacific Railway Company were deposited as collateral security with J. Pierpont Morgan & Co.; that 15 per cent. of the subscriptions to the capital stock has been paid to the reorganization committee; that the receivers have been requested to recover this property and money, and the balance of the subscriptions, for the satisfaction of the guaranties of the orators, all which has been refused; and that leave to bring this suit against the receivers has been granted by the court that appointed them. The receivers have demurred to the bill, and the demurrer has now been heard.

The granting of leave to bring this suit does not confer upon this court any jurisdiction to grant in this suit any relief which does not belong to such a suit, nor give to the court in this cause any part of the merely administrative power of the court over its receivers in that cause. The orators are, according to the bill, merely unsecured creditors of the Union Pacific Railway Company, with the right to reach the unincumbered assets of that company, and the excess of incumbered property over the incumbrances, for the satisfaction of their claims. The receivers are complained of here for nonfeasance in their duties merely. They are not alleged, as the bill is understood, to have interfered with any of the property or rights of the orators, but are charged only with failure to take measures to secure assets of the corporation, of the property of which they are receivers, for the payment of the claims of the orators from such assets, when recovered. This court cannot in this cause compel the receivers of any court in another cause to pursue any particular course for the recovery of property or assets for any class of creditors, or control them in their management of any such proceedings when taken. All that necessarily belongs to the court whose receivers they are, and it cannot with propriety and safety be assumed by any other court. The receivers, as such, in that right, have no interest in the subjects of their receivership, except through the power of the court appointing them; and all right of recovery by them, as such, comes from the power of that court in that cause, and no court in any other cause can set that power in motion. In this view, the question of misjoinder of plaintiffs, that of the sufficiency of the judgments for reaching equitable assets by those recovering them, and that whether judgments for some would answer for all, are immaterial. Demurrer sustained.

FRENCH et al. v. UNION PAC. RY. CO. et al.

(Circuit Court, S. D. New York. February 22, 1899.)

EQUITABLE JURISDICTION—ENJOINING ACTIONS AT LAW.

An insolvent corporation cannot maintain a bill to restrain creditors from prosecuting actions on their respective claims, on the ground of preventing a multiplicity of suits, when such creditors are seeking to reach equitable assets of the corporation, to do which it is necessary that they should obtain judgments on their claims.

In Equity.

Rush Taggart, for plaintiffs.

George H. Yeaman, for defendants.

WHEELER, District Judge. This is a cross bill filed by the defendant the Union Pacific Railway Company in the original cause, decided upon the demurrer of the receivers to restrain a multiplicity of suits upon the guaranties, which has been heard on demurrer. 92 Fed. 26. The defendant does not admit that the two suits already brought are sufficient, so far as proceedings at law may be required, for reaching equitable assets; nor that valid judgments by some would be sufficient for all. The plaintiffs cannot properly be restrained from taking such steps as may be necessary to reach equitable assets, if any such should come within reach. No equitable ground for maintaining this bill is, in any view, made to appear. Demurrer sustained.

REYMANN BREWING CO. v. BRISTOR, County Treasurer.

(Circuit Court, S. D. Ohio, E. D. February 24, 1899.)

No. 852.

INTOXICATING LIQUORS—TAXATION OF BUSINESS—DOW LAW OF OHIO.

Under the Dow law (83 Ohio Laws, p. 157, and amendments), which imposes a tax upon each place where the business of trafficking in liquors is carried on, and defines such business as the buying or procuring and selling of liquors, not including the manufacture of liquors from the raw material, and the sale thereof at the manufactory by the manufacturer in quantities of one gallon or more at a time, a storage house or room maintained by a brewing company at a place other than its brewery, where beer is stored, and from which it is sold and delivered to retail dealers in the same packages in which it is received from the brewery, is subject to the tax; and in that respect the law does not discriminate in favor of manufacturers who are residents within the state.

This was a suit in equity by the Reymann Brewing Company against Harry Bristor, treasurer of Jefferson county, Ohio, to restrain the collection of certain taxes.

John A. Howard, for complainant.

A. C. Lewis, for defendant.

THOMPSON, District Judge. This cause is submitted upon the bill and a written statement of facts agreed upon by the parties. The statement of facts is as follows: