# ALLEN v. BROOKLYN.

Case No. 218.

{8 Blatchf. 535; 4 Fish. Pat. Cas. 598.}[1]

Circuit Court, E. D. New York. July 12, 1871.

PATENTS FOR INVENTIONS—INFRINGEMENT BY BOARD OF EDUCATION—LIABILITY OF CITY.

The city of Brooklyn is not liable to the patentee of a patented seat, for the use thereof in the public schools of the city, under the direction of the board of education, which purchased and owns the seats, the corporation of the city not using the seats, and having no power, by law, to direct the discontinuance of their use.

{In equity. Bill by Aaron H. Allen against the city of Brooklyn to enjoin infringement of letters patent No. 12,017. Injunction refused.}

John A. Beall, for plaintiff.

William C. De Witl, for defendants.

BENEDICT, District Judge. I am of the opinion that this action cannot be maintained against the city of Brooklyn—not, however, by reason of any exemption from liability secured by the act of 1862, (Bliss v. City of Brooklyn, {Case No. 1,544,}) but because the use of the complainant's patent seats in the public schools of the city, under the direction of the board of education, to which body the seats belong, does not create a liability on the part of the corporation of the city of Brooklyn to pay the complainant for the use of his patent. The injunction prayed for, if granted, would be of no effect, as the corporation of the city has no power, by law, to direct the discontinuance of the use of the seats. The seats are not used by the corporation of the city, but by the board of education, the purchaser, and any injunction, to be effectual, must issue against that body.

{NOTE. For other cases involving this patent see note to Allen v. New York, Case No. 232.}

[1] {Reported by Hon. Samuel Blatchford, District Judge, and here reprinted by permission.}