

reference to debts which it owes, is because there only can it be sued, or found for the service of process. This is now changed, in cases like the present; and in the courts of the United States it is held that a corporation of one state, doing business in another, is suable in the courts of the United States established in the latter state, if the laws of that state so provide, and in the manner provided by those laws. *Insurance Co. v. French*, 18 How. 404; *Railroad Co. v. Harris*, 12 Wall. 65; *Ex Parte Schollenberger*, 96 U. S. 369; *Railroad Co. v. Koontz*, 104 U. S. 5, 10. It is argued for the plaintiff in error that administration could have been taken out in Michigan on the policy, on the view that that was the domicile of the assured, and that it could have been taken out in Massachusetts, without regard to the location of the policy at the time of the death of Mrs. Woodworth, and without regard to the fact that she died in another jurisdiction; and the case of *Bowdoin v. Holland*, 10 Cush. 17, is cited as holding that administration may be granted in Massachusetts on the estate, situated there, of a person who died while residing in another state, although the will of the deceased had not been proved in the state of his domicile, on the view that otherwise debts due in Massachusetts, to or from the intestate's estate, could not be collected. The reason assigned for taking out letters in Massachusetts has equal force when applied to a state where the debtor does business under the laws of that state, and can be sued as fully as in Massachusetts, and is sure to be found so as to be served with process. If the defendant is to be sued in Illinois, administration must be taken out there, and administration in Massachusetts or in Michigan would not suffice as a basis for a suit in Illinois. The consent and capacity to be sued in Illinois still require, if an administrator is to be the plaintiff, that letters should be issued in Illinois; and by the terms of the policy, on the death of the assured, the suit must be by her executor or administrator. So it results that the question in this case must be decided on the same principle as if Illinois were the only state in which suit could be brought, and therefore the state in which letters of administration must be taken out for the purpose of a suit."

In the recent case of *Insurance Co. v. Chambers* (N. J. Ch.) 32 Atl. 663, which, in respect to the question under consideration, is not to be distinguished from the present case, the court of chancery of New Jersey disposes satisfactorily of every objection which was urged there, or has been urged here, either upon principle or policy, to the assertion of jurisdiction in such cases. It hardly need be said that the case does not, like *St. Clair v. Cox*, 106 U. S. 350, 1 Sup. Ct. 354, involve the question of jurisdiction to render a personal judgment against the principal debtor. The judgment below is reversed, with direction that the demurrers to the pleas to the jurisdiction be sustained, and that further proceedings be had consistently with this opinion.

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UNITED STATES v. HENSEL et al.

(Circuit Court, S. D. New York. February 11, 1896.)

No. 2,124.

1. CUSTOMS DUTIES — CLASSIFICATION — PHILOSOPHICAL AND SCIENTIFIC APPARATUS.

Microscopes and a movable object table held to be "philosophical and scientific apparatus," within the meaning of paragraph 677 of the act of 1890. Contra, however, as to a microscope case imported without a microscope.

2. SAME—PHILOSOPHICAL SOCIETIES OR INSTITUTIONS.

The College of Physicians and Surgeons, which is known as the "Medical School of Columbia College," is an "institution" for whose use

philosophical and scientific apparatus may be entered free of duty, under paragraph 677 of the act of 1890.

8. SAME.

A microscope imported by a physician or surgeon who swears that it is for use in his laboratory, of which he is the instructor (being evidently a laboratory for clinical purposes), is to be regarded as imported for the use of an "institution," within the meaning of paragraph 677 of the act of 1890. But a microscope imported by one who swears that he is to be instructor of a class of histology at Greenville, in the state of South Carolina, is not to be so regarded, in the absence of evidence to show that such a class is in existence.

Appeal on behalf of the United States from a decision of the board of general appraisers which reversed the action of the collector in assessing duty upon certain articles imported by Hensel, Bruckmann & Lorbacher.

Henry D. Sedgwick, Jr., Asst. U. S. Atty.  
Albert Comstock, for importers.

COXE, District Judge (orally). Four separate articles are involved in this controversy. The first two are microscopes, the second is a movable object table, and the third is a microscope case. The collector assessed them for duty according to the materials of which they were composed. The importers insist that they are entitled to free entry under paragraph 677 of the tariff act of 1890, which provides for "philosophical and scientific apparatus \* \* \* specially imported in good faith for the use of any society or institution incorporated or established for religious, philosophical, educational, scientific, or literary purposes, and not intended for sale." Two questions arise on this appeal. The first is whether or not these articles are philosophical or scientific apparatus; the second is whether or not they were imported for the use of a society or institution incorporated or established for philosophical, educational, scientific or literary purposes. With regard to the first question I am inclined to think that each of the articles imported is scientific in character, with the exception of the microscope case. It appears from the return that the case was imported without a microscope, and I am unable to say that a microscope case, a simple box, designed to hold a microscope, is a scientific instrument. The situation would be quite different if the case contained a microscope.

The second question, whether or not the affidavits bring the importers within the language of paragraph 677, remains to be considered. As to the movable table, I do not understand that there is any serious contention. That was intended for the use of the College of Physicians and Surgeons, which is well known as the "Medical School of Columbia College,"—clearly an institution within the language of the statute.

With regard to the microscope imported for Dr. Kyle, I am also inclined to think that the affidavit is sufficient under the provisions of the statute. His laboratory is evidently one for clinical purposes, he is the instructor and it would seem to follow as a necessary inference that an institution having an instructor must also have some one to be instructed. As to the other microscope the affidavit is insuffi-

cient. I do not see how it can be said that a person who swears that he is to be an instructor of a class of histology at Greenville, in the state of South Carolina, brings himself within the law. Neither the affiant nor class can be regarded as a society or an institution. There is nothing to show that the class is in existence, the whole matter is in embryo. The class may never be organized, and the doctor may thus get the microscope for his own personal use without the payment of duty. It seems to me that the affidavit is entirely insufficient under this paragraph. Therefore, there should be a reversal of the decision of the board with reference to the microscope imported for Dr. Freeborn and also the microscope case imported for Dr. Byron; as to the other two articles the decision of the board is affirmed.

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MATTHEWS et al. v. UNITED STATES.

Circuit Court, S. D. New York. February 10, 1896.)

No. 1,134.

CUSTOMS DUTIES—CLASSIFICATION—NEEDLE CASES.

Where needles not subject to duty are imported in cases of a form in which they have been imported for from 16 to 20 years, the court will not be justified in finding that such cases were designed for a different use, especially where they are evidently of cheap construction, and purport on their face to be needle cases. Therefore they will be entitled to free entry, under section 19 of the customs administrative act of June 10, 1890, and cannot be subjected to duty according to the materials of which they are made.

Appeal by Matthews, Blum & Vaughn, importers, from a decision of the board of general appraisers which affirmed the action of the collector in assessing duty upon the importations in question.

Everit Brown, for importers.

Henry C. Platt, Asst. U. S. Atty.

COXE, District Judge (orally). The importers imported various articles, samples of which have been produced before the court, being cases containing needles. The collector assessed duties upon them under various paragraphs of the statute having reference to the material of which they were made. The importers insist that they should have been permitted to enter free of duty under the provisions of section 19 of the customs administrative act of June 10, 1890. There is no dispute that the needles in question are free under paragraph 656 of the act of Oct. 1, 1890. The only question before the court is whether or not the cases referred to are or are not usual and ordinary coverings. If they are unusual in form or design or are intended for use otherwise than in the bona fide transportation of the needles they are subject to duty. The question is whether or not they are unusual. I understand the evidence to be substantially uncontradicted that needles have been imported in this form for 16 or 20 years, and as was said in *U. S. v. Richards*, 66 Fed. 730,