"Though many things be incident to a corporation, yet, to form the complete idea of a corporation aggregate, it is sufficient to suppose it vested with the three following capacities: (1) To have perpetual succession under a special denomination, and under an artificial form; (2) to take and grant property, to contract obligations, and to sue and be sued in its corporate name, in the same manner as an individual; (3) to receive grants of privileges and immunities, and to enjoy them in common. These alone are sufficient to the essence of a corporation."

Quasi corporations, according to Mor. Priv. Corp. § 6, are "associations and government institutions possessing only a portion of the attributes which distinguish ordinary private or public corporations." He cites, in illustration, towns and other political divisions, school districts, boards of commissioners, overseers or trustees of the poor, etc., having authority to act and bring suit as united bodies, without regard to their membership for the time being; also, individual public officers having authority to sue in their official capacities upon contracts made with their predecessors in office. These are referred to as examples of quasi corporations sole. To the same effect, see Thomp. Corp. § 20.

Judge McIlvaine, in State v. Powers, 38 Ohio St. 54, announcing the opinion of the supreme court of Ohio, declared that common-school districts and boards of education are not corporations, within the meaning of section 1 of article 13 of the constitution of Ohio, although they are quasi corporations, and although declared by statute to be bodies politic and corporate.

Under the authorities cited, and the definitions quoted, it is clear that the plaintiff company is endowed with all the essential characteristics of a corporation, and that, for the purposes of jurisdiction, it must be regarded as such.

The motion for new trial is overruled, and judgment will be entered on the verdict for the amount claimed.

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## RONDOT v. TOWNSHIP OF ROGERS.

(Circuit Court of Appeals, Sixth Circuit. February 2, 1897.)

No. 432.

FEDERAL JURISDICTION—AVERMENT OF ALIENAGE.

In an action in the circuit court against a citizen of the United States, a description of the plaintiff as a "resident of Ontario, Canada, and a citizen of the dominion of Canada and of the empire of Great Britain," is not a sufficient averment that such plaintiff is an alien, and a subject of the queen of England, to show jurisdiction in the circuit court. Stuart v. City of Easton, 15 Sup. Ct. 268, 156 U. S. 46, followed.

In Error to the Circuit Court of the United States for the Eastern District of Michigan.

C. A. Lightner, for plaintiff in error.

Henry M. Duffield, for defendant in error.

Before TAFT and LURTON, Circuit Judges, and SAGE, District Judge.

TAFT, Circuit Judge. This action was begun in the court below, the circuit court of the United States for the Eastern district of Michigan. The jurisdiction of the court rests upon the sufficiency of the first paragraph of the declaration to show it. That paragraph is as follows:

"Augustus E. Rondot, a resident of Ontario, Canada, and a citizen of the dominion of Canada and of the empire of Great Britain, plaintiff, by Keena & Lightner, his attorneys, comes and complains of the township of Rogers, a corporation organized and existing under the laws of the state of Michigan, and a citizen of said state, and a resident of the Eastern district of Michigan thereof, defendant therein, filing this declaration entering the rule to plead, etc., as commencement of suit of a plea of breach of covenant."

By the first section of the act of March 3, 1875, as amended March 3, 1887, and August 13, 1888, the circuit courts of the United States are given cognizance of controversies between citizens of a state and foreign states, citizens, or subjects in which the matter of dispute exceeds, exclusive of interest and costs, $2,000. The dominion of Canada is a colony of the kingdom of Great Britain and Ireland, and those who enjoy political protection and privileges under the governments of the dominion of Canada and the province of Ontario, and owe allegiance thereto, are subjects of the queen of England; as much so as if they, owing the same allegiance, were residents of London. Hence the right of a Canadian to sue in the courts of the United States must be based on the jurisdiction of those courts to hear and decide controversies between citizens of a state of the United States and foreign subjects, and the correct averment would have been that the plaintiff was a subject of the queen of England, and an alien. This seems a very technical ruling, and it is so; but it is in accordance with a recent decision of the supreme court of the United States upon a similar case. In Stuart v. City of Easton, 156 U. S. 46, 15 Sup. Ct. 268, the chief justice, speaking for the court, said:

"Plaintiff in error is described throughout the record as 'a citizen of London, England,' and the defendants as 'corporations of the state of Pennsylvania.' As the jurisdiction of the circuit court confessedly depended on the alienage of plaintiff in error, and the fact was not made affirmatively to appear, the judgment must be reversed, at the costs of plaintiff in error, and the cause be remanded to the circuit court, with leave to apply for amendment, and for further proceedings."

If the description of a party as a citizen of London, England, does not make his alienage affirmatively to appear, we are unable to see that the description of a party as a citizen of the dominion of Canada and the empire of Great Britain makes such alienage any more clear. It is doubtless true that the plaintiff in error can amend his declaration so as affirmatively to show his alienage, and thus that the same questions will probably be presented on a new trial as now arise upon the record. It would shorten the litigation, therefore, were we now to pass upon the questions raised, but the supreme court has not deemed it proper to take such a course in a case like this. Robertson v. Cease, 97 U. S. 646. The judgment of the circuit court is reversed, at the costs of the plaintiff in error, and the cause is remanded to the circuit court, with leave to apply for amendment, and further proceedings.

## ROBINSON v. HONSTAIN et al.

(Circuit Court, D. Minnesota, Fourth Division. April 8, 1897.)

No. 363.

SECURITY FOR COSTS.

Rule No. 77 of the circuit court for the district of Minnesota, providing that in every case "the plaintiff shall give security for costs," requires merely the giving of security for the clerk's costs, and not security for the benefit of defendants.

This is a suit in equity brought by Dighton A. Robinson against George T. Honstain and Arthur E. Honstain. Upon motion to require complainant to give security for costs for the benefit of defendants.

A. C. Paul, for plaintiff.
P. H. Gunckel, for defendants.

LOCHREN, District Judge. The defendants in this case move for an order requiring the plaintiff to give security for costs for the benefit of the defendants, and base their motion upon rule No. 77 of this court, recently formulated, as follows:

"Ordered: That rules numbered 72 and 77 be and the same hereby are repealed and abrogated, and that the following be and the same hereby is adopted as a rule of the United States circuit court for the district of Minnesota, numbered 77, to wit:

"Ordered: That before any case, either at law or equity, is commenced in this court, or before any papers in any case removed by the plaintiff or defendant from a state court are filed by the clerk, the plaintiff shall give security for costs. That besides the security for costs now required to be given at the commencement of an action at law or a suit in equity by the plaintiff therein, the clerk may require the party commencing such action or suit, or removing a cause into this court from a state court, and before docketing the same or issuing process therein, to deposit with the clerk $10.00 to cover the clerk's costs which may be paid by him in the prosecution of the cause; and if said deposit shall at any time be exhausted by the party making the same, the clerk may from time to time require such party to deposit a further sum of $5.00. When the defendant in any action or suit in this court, or the party against whom such suit or action had been removed into the same, or any other party who is or seeks to become a party to any such action or suit enters his appearance or files any paper therein, the clerk may require of him to deposit $5.00 to cover the costs of clerk which may be made by him, and whenever the said sum is exhausted the clerk may require the same to be renewed. Upon the determination of a cause, any sums deposited as aforesaid, and remaining in the hands of the clerk not applicable to the clerk's costs, of the party making the deposit, shall be returned by him to the party who made such deposit. The terms plaintiff, defendant and party as above used shall be taken as meaning all of the parties plaintiff when there are several, and all of the parties defendant when there are several; but if the interests of several parties on one side are separate and diverse a special order regulating the deposit to be made by them shall be made by the court.

"Dated St. Paul, March 3rd, 1897.

"Walter H. Sanborn, Circuit Judge."

The contention of the defendants is that under the terms of the first clause of this new rule, requiring that before a case is commenced, or any papers filed, "the plaintiff shall give security for costs," the plaintiff must give such security for the benefit and protection of