

Rule to show cause why case should not be remanded to state court.

This was an action at law, brought in a state court of Pennsylvania by Caroline Johnson against the Philadelphia, Wilmington & Baltimore Railroad Company. Defendant filed a petition for removal, under the act of congress of March 3, 1875, setting forth that defendant was a corporation formed by the union of three corporations, viz., the Philadelphia, Wilmington & Baltimore Railroad Company, which was chartered by the state of Pennsylvania, the Wilmington & Susquehanna Railroad Company, which was formed by the union of two other railroads, one chartered by the state of Delaware and the other by the state of Maryland, and the Baltimore & Port Deposit Railroad Company, chartered by the state of Maryland; that under authority conferred by concurrent legislation of the three states named, articles of union were entered into by said three corporations, by which they were united in one body corporate, under the name of the Philadelphia, Wilmington & Baltimore Railroad Company, with all the rights, privileges, and immunities which each and all of them possessed under their respective charters; and that the defendant was thus, at the time this suit was brought, a corporation chartered by and existing under the laws of the states of Pennsylvania, Delaware, and Maryland. Under this petition the case was removed to the United States circuit court. Plaintiffs then obtained the present rule to remand.

George Haldorn, for plaintiff.

Thomas Hart, Jr., and *James E. Gowen*, for defendant.

The court, McKENNAN, C. J., and BUTLER, D. J., made the rule absolute, and directed the clerk to certify the record to the state court.

NOTE. The recent dissent of Judge Nelson in *Nashua & Lowell R. v. Boston & Lowell R.* 8 FED. REP. 458, from what he there says "seems" to have been the conclusion in the above case, renders a full report of the case important; and it is therefore published, although no written opinion has ever been filed. It is to be observed that in the above case, as well as in the later cases of *C. & W. I. R. Co. v. L. S. & M. S. Ry. Co.* 5 FED. REP. 19, and *Uphoff v. Chicago, St. L. & N. O. R. Co.* Id. 545, which followed its ruling, the consolidated railroad was sued as defendant in a court of one of the states by which it was chartered. The plaintiff had the right to treat it as a corporation of the state in which he sued, and the railroad company could not defeat that right or remove the cause by subsequently alleging a foreign citizenship under its other charters. In the Massachusetts case, however, the situation of the parties was exactly reversed; the consolidated corporation being the plaintiff instead of defendant, and having elected to sue as a foreign citizen by virtue of its foreign charter. Though an individual may insist upon suing such a corporation under the charter granted by his own state, it does not necessarily follow that he can object to being sued by it under the charter granted by a foreign state. It will be seen, therefore, by a comparison of the facts in the two cases, that the decision in the Pennsylvania case does not necessarily conflict with the decision rendered in the Massachusetts case.—[REP.]

STEAM STONE-CUTTER Co. v. SEARS.

(Circuit Court, D. Vermont. October 11, 1881.)

1. PROCEDURE—WRITS OF SEQUESTRATION IN THE NATURE OF ATTACHMENT—LIENS.

Under its rules, this court has the power to issue writs of sequestration in the nature of attachment; and such writs, when duly served, create valid liens upon real property in this state so attached, as against a grantee with knowledge of the attachment to whom the property was conveyed *pendente lite*.

2. SAME—SERVICE.

Due service is service in the manner provided by the state statutes.

3. *Sendle* that the knowledge or ignorance of the grantee does not affect the validity of the levy.

In Equity.

Prout & Walker, for orator.

E. J. Phelps and *Wm. Batchelder*, for defendant.

WHEELER, D. J. The orator, as owner of a patent, brought a bill in this court against the Windsor Manufacturing Company for infringement, and obtained a decree establishing the title to and validity of the patent, the fact of infringement, and for an account of profits. After this decree, on application of the orator a writ of sequestration, in the nature of an attachment, to create a lien for satisfying the decree, was issued, and served by attaching the real estate of that defendant in accordance with statutes of the state of long standing, which enable the courts of chancery of the state to issue such process and create such liens. After this attachment, that defendant conveyed to this defendant, who had full knowledge of the attachment, a portion of the estate so attached. The orator obtained a final decree for the payment of money in the original cause, took out execution thereon, and caused it to be levied upon that estate, and caused the estate to be set out to the orator in satisfaction of so much of the execution as it would apply to, at its appraised value, agreeable to the statutes of the state in relation to levy of execution upon real estate. The defendant refuses to recognize the validity of the attachment and levy, and claims to hold the land against them. This bill is brought to confirm and enforce the orator's attachment and levy, and to obtain possession of the estate, and the cause has been heard upon bill and answer.

No question is made about the propriety or regularity of the writ of attachment issued in this case, if there was authority to issue such a writ at all; nor about the regularity of the attachment upon the writ, or the levy of the execution and setting out the estate by the