be excepted from the operation of this rule. The provision of the Code is explicit that judgment may be rendered "for or against one or more of several defendants," according as the proof may warrant, and this provision is as applicable to suits by attachment as to suits in any other form. Section 388, Gantt's Dig. subd. 9. The plaintiffs prove a good ground of attachment against the defendant Clayton, whose property has been attached, and the attachment is sustained as to him and his property. If the joint property had been attached a different question would have been presented, upon which no opinion is expressed.

PUTNAM and another *v.* HOLLENDER and another.*

(*Circuit Court, S. D. New York.* March 1, 1882.)

PRACTICE—MOTION FOR ATTACHMENT—INFRINGEMENT.

Where it is doubtful whether defendant's device infringes complainant's patent, such question is not to be determined in a summary way on a motion for attachment, but must be tried on pleadings and proofs in a new suit.

In Equity. Motion for attachment.

A. v. Briesen, for plaintiffs.

F. H. Betts and *E. Fitch*, for defendants.

BLATCHFORD, C. J. I do not deem it necessary or proper, in deciding this motion for attachment, to say more than that, on the construction heretofore given to the plaintiffs' patent by this court, it is not satisfactorily established that the defendants' new stopper infringes that patent. For the purposes of this suit, three pivotal connections are necessary, and it is at least doubtful whether such new stopper has more than two. The case is one in which, on well-established principles, the questions involved must be tried on pleadings and proofs, in a new suit, and not in a summary manner in this suit.

*Reported by S. Nelson White, Esq., of the New York bar.

UNITED STATES v. COBB and others.

(Circuit Court, D. Massachusetts. April 3, 1882.)

1. CUSTOMS DUTIES—RIGHT OF THE GOVERNMENT.

   The right of the government to the duties is not limited to the lien on the goods, or to the bond given for their payment. The revenue act makes the duties a personal debt or charge upon the importer, which accrues to the government immediately upon the arrival of the goods at the proper port of entry. They are due, although the goods, for any reason, had never come into the hands of the customs officers, or the statute proceedings had never been instituted, or through accident, mistake, or fraud no duties or short duties have been paid, and the importer is not discharged from his debt by the delivery to him of the goods without payment.

2. CLASSIFICATION UNDER "SIMILITUDE CLAUSE"—RULINGS OF SECRETARY OF THE TREASURY.

   Where the secretary of the treasury instructed the collector of the customs to continue to classify jute rejections as jute butts, under the provisions of the Revised Statutes, § 2499, known as the "similitude clause," after jute butts had ceased to be dutiable and could no longer be a standard of comparison under that clause, and the collector delivered the jute rejections free of duty under said similitude clause; and the secretary of the treasury, having subsequently discovered his error, in a second instruction to the collector directed him to collect the prescribed duty on the jute rejections,—*held*, that the secretary had an undoubted right to change his first erroneous ruling.

3 BOND OF IMPORTER—CONSTRUCTION OF.

   The bond given by the importers, in which they expressly stipulate to pay the amount which might be found due upon the final liquidation of the entry over and above the amount of the estimated duties already paid, is a distinct notice to them that a further adjustment of the duties on the entry was to be made, and that they might be called upon for a further payment.

On Motion for New Trial.

Prentiss Cummings, for plaintiff.

Moorfield Storey, for defendants.

Before LOWELL and NELSON, JJ.

NELSON, D. J. This is an action to recover the duties on 619 bales of jute rejections imported by the defendants at New York in August, 1872. At the trial the court directed a verdict for the plaintiff, and the defendants now move for a new trial on the ground that this direction should not have been given.

Considered in the most favorable light for the defendants, the evidence proved the following facts:

For several years prior to August 1, 1872, jute butts had been subject to a duty of six dollars a ton; and under the instructions of the secretary of the treasury jute rejections had been classified and made dutiable as jute butts, under the provision of section 20 of the act of August 30, 1842, (5 St. 565;