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**Covington Drawbridge Company Vs. Shepherd**

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**Court :** US Supreme Court

**Decided On :** 1857

**Appeal No. :** 61 U.S. 227

**Appellant :** Covington Drawbridge Company

**Respondent :** Shepherd

**Judgement :**

Covington Drawbridge Company v. Shepherd - 61 U.S. 227 (1857)

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**Covington Drawbridge Company v. Shepherd**

**61 U.S. (20 How.) 227**

*ERROR TO THE CIRCUIT COURT OF THE UNITED*

*STATES FOR THE DISTRICT OF INDIANA*

**SYLLABUS**

An averment in pleading that the Covington Drawbridge Company were citizens of Indiana was sufficient to give jurisdiction to the circuit court of the United States,

because the company was incorporated by a public statute of the state which the court was bound judicially to notice.

The former decisions of this Court upon this subject examined.

Shepherd and the other defendants in error, styling themselves citizens of Ohio, brought an action of trespass on the case against the Covington Drawbridge, Company, citizens of the State of Indiana, for injuries sustained by a steamboat belonging to the plaintiffs, in consequence of negligence in attending to the draw. The defendants pleaded not guilty, and the case was tried by a jury, who found a verdict for the plaintiffs, awarding \$6,084.93. There were no prayers to the

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court or bills of exceptions. But the defendants sued out a writ of error, and brought the case up to this Court, upon the ground that

"the circuit court had no jurisdiction of the cause. The averment of the citizenship of the defendants below, as stated in the declaration, is not sufficient to give jurisdiction to the court. "

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MR. CHIEF JUSTICE TANEY delivered the opinion of the Court.

The writ of error in this case is brought upon a judgment recovered by Shepherd and others, against the Covington Drawbridge

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Company, in the Circuit Court of the United States for the District of Indiana.

The only error assigned here is that upon the declaration and pleadings in the case, the circuit court had no jurisdiction.

This objection is founded upon the description of the parties in the declaration, which is in the following words:

"Alexander O. Shepherd, Elijah F. Gillan, James Davidson, Samuel McClure, Samuel Peters and George Willard, citizens of the State of Ohio, plaintiffs in this suit, complain of the Covington Drawbridge Company, citizens of the State of Indiana, defendants in this suit, in a plea of trespass on the case."

The plaintiff in error, who was defendant in the court below, contends that it does not appear by this averment that the Drawbridge Company was a corporation chartered by Indiana, and had its principal place of business in that state, and that unless this appears in the pleadings, the averment that they were citizens of that state was not sufficient to give jurisdiction to the circuit court.

It is very true, that where individuals voluntarily associate together, and adopt a name or description intended to embrace all of its members, and under which its contracts and engagements are made, and its business carried on, such a company can neither sue nor be sued by the name they have adopted, and under which they act, in any court of common law, whether it be the court of a state or of the United States. They must sue and be sued in their individual names as partners in the company.

But the answer to the objection taken by the plaintiff in error is that the twenty-seventh section of the fourth article of the Constitution of Indiana provides that "every statute shall be a public law, unless otherwise declared in the statute itself." The statute of the Legislature of Indiana, incorporating the Covington Drawbridge Company, is therefore a public law, of which the circuit court and this Court are bound to take judicial notice, without its being pleaded or offered in evidence. For wherever a law of a state is held to be a public one, to be judicially taken notice of by the state courts, it must be regarded in like manner by a court of the United States, when it is required to administer the laws of the state.

This being the case in this instance, the averment that the Covington Drawbridge Company are citizens of the State of Indiana is sufficient, according to the decision of this Court in the case of the [Louisville, Cincinnati & Charleston Railroad Company v. Letson](#), 2 How. 497, which has ever since been adhered to, and must now be regarded as the settled law of the court.

The question as to the jurisdiction of the courts of the United States in cases where a corporation is a party, was argued and considered in this Court, for the first time, in the cases of *Hope Insurance Company v. Boardman*, and of *Bank of the United States v. Deveaux*, 5 Cranch [9 U. S. 57](#) and [9 U. S. 61](#) . These two cases were argued at the same term, and were, as appears by the report, decided at the same time. And in the last-mentioned case, the Court held that in a suit by or against a corporation in its corporate name, this Court might look beyond the mere legal being which the charter created, and regard it as a suit by or against the individual persons who composed the corporation, and an averment that they were citizens of a particular state, if such was the fact, would be sufficient to give jurisdiction to a court of the United States although the suit was in the corporate name and the individual corporators not named in the suit or the averment.

But in the case of *Louisville, Cincinnati & Charleston Railroad Company v. Letson*, the Court overruled so much of this opinion as authorized a corporation to plead in abatement that one or more of the corporators, plaintiffs or defendants, were citizens of a different state from the one described, and held that the members of the corporate body must be presumed to be citizens of the state in which the corporation was domiciled, and that both parties were estopped from denying it. And that inasmuch as the corporators were not parties to the suit in their individual characters, but merely as members and component parts of the body or legal entity which the charter created, the members who composed it ought to be presumed, so far as its contracts and liabilities are concerned, to reside where the domicil of the body was fixed by law, and where alone they could act as one person, and to the same extent and for the same purposes be also regarded as citizens of the state from which this legal being derived its existence and its faculties and powers. And in the case of [Bank of Augusta v. Earle](#), 13 Pet. 519, the court said that a corporation can have no legal existence outside of the dominion of the state by which it is created. Consequently, the Covington Drawbridge Company being chartered by the State of Indiana, it necessarily has its home and place of business in that state, and the only averment in the

declaration necessary to show a case for jurisdiction, was that of the citizenship of the parties who composed the company.

In the case of *Lafayette Insurance Company v. French*, the declaration stated that the corporation itself was a *citizen* of Indiana. Now no one, we presume, ever supposed that the artificial being created by an act of incorporation could be a

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citizen of a state in the sense in which that word is used in the Constitution of the United States, and the averment was rejected because the matter averred was simply impossible. But it appeared from other parts of the pleadings that the corporation was chartered by Indiana, and had its principal place of business in that state. And the court, therefore, applied the principle decided in the case of *Louisville, Cincinnati & Charleston Railroad Company v. Letson*, and held that the members of the corporate body must be presumed to be citizens of the same state. The citizenship of the corporators was regarded as the necessary and legal consequence of the facts stated in the pleadings without any positive and direct averment to that effect. The case of *Marshall v. Baltimore & Ohio Railroad Company* was decided upon the same ground. But in the case before us, the citizenship of the corporators is not left to be inferred by the court from other facts stated in the pleadings, but is directly and positively averred, and consequently freed from all objection on that head. Indeed it is the same form of pleading in this respect that was used in the case of *Bank of the United States v. Deveaux*, and which this Court ruled to be good.

If the act of incorporation had not been a public law, which the court is bound to notice, then undoubtedly the proper description of the defendants would have been

"The Covington Drawbridge Company, citizens of the State of Indiana, incorporated by that name, by the said state, and having their principal place of business therein."

But in the case before us, the averment of the citizenship of the members of the corporation is all that is required, because the existence and domicile of the corporate body is judicially known to the court.

*The judgment of the court below is therefore affirmed.*

MR. JUSTICE CAMPBELL concurs in the result of the opinion of the court.

MR. JUSTICE DANIEL.

In dissenting from the decision of the court in this cause, it is not designed to reiterate objections which in several previous instances have been expressed. I will merely remark, with reference to the present decision, and to others in this Court, numerous as they are said to have been, that they have wholly failed to bring conviction to my mind, that a corporation can be a citizen, or that the term citizen can be correctly understood in any other sense than that in which it was understood in common acceptation when the Constitution was adopted, and as it is universally by writers on government explained, without a single exception.

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