

LOCOMOBILE COMPANY OF AMERICA *v.* COMMONWEALTH OF MASSACHUSETTS.

ERROR TO THE SUPREME JUDICIAL COURT OF THE STATE OF MASSACHUSETTS.

No. 734. Argued October 19, 1917.—Decided March 4, 1918.

An excise tax of a designated per cent. of entire authorized capital, imposed on a foreign corporation for the privilege of doing local business in Massachusetts, *held*, void, upon the authority of *International Paper Co. v. Massachusetts, ante*, 135, and cases there cited. 228 Massachusetts, 117, reversed.

THE case is stated in the opinion.

*Mr. Charles A. Snow*, with whom *Mr. Frank T. Benner* and *Mr. William P. Everts* were on the brief, for plaintiff in error.

*Mr. William Harold Hitchcock*, Assistant Attorney General of the State of Massachusetts, with whom *Mr. Henry C. Attwill*, Attorney General of the State of Massachusetts, was on the brief, for defendant in error.

MR. JUSTICE VAN DEVANTER delivered the opinion of the court.

An excise tax of \$1,300 imposed on a West Virginia corporation for doing a local business in Massachusetts during the year 1915 is here in question. The state court sustained it. 228 Massachusetts, 117. The corporation is engaged in manufacturing in Connecticut and sells its manufactured articles extensively in interstate commerce. It does both an interstate and a local business in Massachusetts. Each is of considerable volume, but the inter-

state is much the larger, although this is not material. The tax is of a designated per cent. of the entire authorized capital, and was imposed after the maximum limit named in St. 1909, c. 490, Part III, § 56, was removed by St. 1914, c. 724, § 1. As thus changed the statute is in its essence and practical operation indistinguishable from those adjudged invalid in *Western Union Telegraph Co. v. Kansas*, 216 U. S. 1; *Pullman Company v. Kansas*, 216 U. S. 56; *Ludwig v. Western Union Telegraph Co.*, 216 U. S. 146, and *Looney v. Crane Company*, 245 U. S. 178. This we have just decided in *International Paper Co. v. Massachusetts*, *ante*, 135.

*Judgment reversed.*

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## CHENEY BROTHERS COMPANY ET AL. v. COMMONWEALTH OF MASSACHUSETTS.

### ERROR TO THE SUPREME JUDICIAL COURT OF THE STATE OF MASSACHUSETTS.

No. 12. Argued April 20, 1916; restored to docket for reargument May 21, 1917; reargued October 19, 1917.—Decided March 4, 1918.

Massachusetts Stats., 1909, c. 490, Pt. III, § 56, imposed an annual excise upon every foreign corporation, for the privilege of doing local business, of 1/50 of 1% of the par value of its authorized capital stock, subject, however, to a maximum limit of \$2,000.00. *Held*, valid, as applied to corporations doing local as well as interstate business, upon the authority of *Baltic Mining Co. v. Massachusetts*, 231 U. S. 68. *International Paper Co. v. Massachusetts*, *ante*, 135, distinguished.

The following activities are *held* to constitute local business, affording bases for the tax:

1. Keeping up a stock of repair parts at a place of business, and supplying and selling them, in part locally, to users of machines made by the corporation in another State and sold in interstate commerce. Case of *Lanston Monotype Co.*