

mene, 12 Fed. Rep. 346. See, also, *The Alzena*, 14 Fed. Rep. 174.

The same question was before the United States district court for the district of Oregon. An Oregon pilot, whose services had been tendered to and refused by the master of a vessel, inward bound on the Columbia river, sought to recover pilotage fees because he was the first pilot who had offered, and was entitled, under the Oregon law, to full pilotage. The master of the vessel employed a pilot licensed by the law of Washington Territory. It was decided that although the Columbia river is not a boundary between two "states," in the sense in which the word is used in the constitution, it is a boundary between one such state and an organized territory of the United States, and that the case came within the mischief intended to be remedied by the act of congress; and that under this construction the master had the right to take a pilot from either Oregon or Washington, without reference to which made the first offer of his services. *The Ullock*, 19 Fed. Rep. 211. The same court has recently (March 26, 1886) passed on the same question, and reaffirmed its former opinion. *The Abercorn*, 26 Fed. Rep. 877.

The main purpose of the act of 1837 was, undoubtedly, to neutralize the effect of adverse and conflicting laws of adjoining states which had or might assume an exclusive regulation of pilotage on navigable waters which are the common, though not the separating, boundary of such states; and no better plan for avoiding or deciding controversies springing out of such conflicting laws, short of a general and uniform system, could have been devised than the one contemplated by the act, namely, the conferring on the master of any vessel requiring a pilot the right of electing who shall serve him in that capacity. This was the object aimed at. The mischief to be suppressed was apparent, and the remedy is equally so. Such being the meaning of the act, under a fair interpretation of its spirit and terms, and this construction being supported by the adjudications of state and federal courts, I am constrained to order that the libel in this case be dismissed, and that a decree be entered for the respondent for his costs.

MENACHO and others v. WARD and others.

SAME v. ALEXANDRE and others.

(Circuit Court, S. D. New York. May 15, 1886.)

CARRIERS OF GOODS—DISCRIMINATION IN RATES—EXCLUSIVE PATRONAGE.

While a common carrier may make discriminations in rates, based upon the quantities of goods sent by different shippers, he cannot charge a higher rate against shippers who refuse to patronize him exclusively.¹

In Equity.

Frederic R. Coudert and Edward K. Jones, for complainants.

James C. Custer and Lewis C. Ledyard, for defendants.

WALLACE, J. The complainants have filed a bill in each of these causes to restrain the defendants from making discriminations for transportation against the complainants, which consist in charging them a higher rate of freight than is charged by defendants to other shippers of merchandise generally. A motion is now made for a preliminary injunction. The facts in each case are essentially the same, and both cases may be considered together.

The complainants are merchants domiciled in the city of New York, and engaged in commerce between that port and the island of Cuba. The defendants are proprietors or managers of steam-ship lines plying between New York and Cuba. Formerly the business of transportation between the two places was carried on by sailing vessels. In 1877 the line of steam-ships known as "Ward's Line" was established, and in 1881 was incorporated by the name of the New York & Cuba Mail Steam-ship Line under the general laws of the state of New York. At the time of the incorporation of this company the line of steam-ships owned by the defendants Alexandre & Sons had also been established. These two lines were competitors between New York and Cuba, but for several years both lines have been operated under a traffic agreement between themselves, by which uniform rates are charged by each to the public for transportation. The two lines are the only lines engaged in the business of regular transportation between New York and Cuba; and unless merchants choose to avail themselves of the facilities offered by them, they are obliged to ship their merchandise by vessels or steamers which may casually ply between the two places.

It is alleged by the complainant that the defendants have announced generally to New York merchants engaged in Cuban trade that they must not patronize steam-ships which offer for a single voyage, and on various occasions when other steam-ships have attempted to procure cargoes from New York to Havana have notified

¹See note at end of case.