

NORTHWESTERN UNION PACKET CO. V.
LOUISIANA.

[4 Dill. 17, note.]¹

Circuit Court, E. D. Missouri.

1876.

WHARFAGE DUES—RATE DEPENDENT
ON—TONNAGE.

By its charter the city of Louisiana has power to erect public wharves, and fix the rates of wharfage thereat. The rates of wharfage for steamboats and boats in tow are fixed by section 3 of an ordinance of said city of Louisiana, in relation to the wharf, etc., entitled, "An ordinance in relation to the wharf; regulating the duties of city marshal, ex-officio wharf master, and prescribing and fixing the rates of wharfage," approved February 19, 1867, as follows: "Section 3. There shall be charged and collected from each and every steamboat, water-craft, raft, or float, landing at or touching the landing, and delivering or receiving any freight or passengers, within the corporate limits of the city, the following sums as wharfage, to wit: First. All steamboats landing and delivering or receiving freight or passengers, shall be charged and pay as wharfage three dollars for each and every landing, whether ascending or descending." The action is to recover back wharfage tax paid in 1870, 1871, and 1872, under written protest. The plaintiff's boats used the improved wharf made by the city. If the tax is legal, it is admitted that the amount is reasonable. [See Case No. 10,345.]

Duncan & Davidson, for plaintiff.

Dyer & Emmons, for defendant.

Before DILLON, Circuit Judge, and TREAT,
District Judge.

TREAT, District Judge. The ordinance of the city of Louisiana covers the entire corporate limits of that city; and, if the plaintiff had paid the so-called wharfage for landing where there was no artificial or improved wharf, there might be ground of complaint. But the fact is that the plaintiff's boats chose to take the benefit of the improved wharf, built at the expense of the city, when it was well known what compensation

was required for such use. The rates were not made dependent on tonnage. Judgment for defendant.

{See Cases Nos. 10,342, 10,343, and 10,346.}

¹ {Reported by Hon. John F. Dillon, Circuit Judge, and here reprinted by permission.}

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