

of Maryland; that under authority conferred by concurrent legislation of the three states named, articles of union were entered into by said three corporations, by which they were united in one body corporate, under the name of the Philadelphia, Wilmington & Baltimore Railroad Company, with all the rights, privileges, and immunities which each and all of them possessed under their respective charters; and that the defendant was thus, at the time this suit was brought, a corporation chartered by and existing under the laws of the states of Pennsylvania, Delaware, and Maryland. Under this petition the case was removed to the United States circuit court. Plaintiffs then obtained the present rule to remand.

George Haldorn, for plaintiff.

Thomas Hart, Jr., and *James E. Gowen*, for defendant.

The court, McKENNAN, C. J., and BUTLER, D. J., made the rule absolute, and directed the clerk to certify the record to the state court.

NOTE. The recent dissent of Judge Nelson in *Nashua & Lowell R. v. Boston & Lowell R.* 8 FED. REP. 458, from what he there says "seems" to have been the conclusion in the above case, renders a full report of the case important; and it is therefore published, although no written opinion has ever been filed. It is to be observed that in the above case, as well as in the later cases of *C. & W. I. R. Co. v. L. S. & M. S. Ry. Co.* 5 FED. REP. 19, and *Uphoff v. Chicago, St. L. & N. O. R. Co.* Id. 545, which followed its ruling, the consolidated railroad was sued as defendant in a court of one of the states by which it was chartered. The plaintiff had the right to treat it as a corporation of the state in which he sued, and the railroad company could not defeat that right or remove the cause by subsequently alleging a foreign citizenship under its other charters. In the Massachusetts case, however, the situation of the parties was exactly reversed; the consolidated corporation being the plaintiff instead of defendant, and having elected to sue as a foreign citizen by

virtue of its foreign charter. Though an individual may insist upon suing such a corporation under the charter granted by his own state, it does not necessarily follow that he can object to being sued by it under the charter granted by a foreign state. It will be seen, therefore, by a comparison of the facts in the two cases, that the decision in the Pennsylvania case does not necessarily conflict with the decision rendered in the Massachusetts case.—[REP.

* Reported by Frank P. Prichard, Esq, of the Philadelphia bar.

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