of the United States as against other nations, because this extension seaward is undoubtedly less than the range of our modern shore batteries (see Pom. Int. Law, §§ 144, 150; Wheat. Int. Law, 177) and any such extension by the United States, it is urged, extends pari passu the jurisdiction and boundaries of the state as its necessary incident. In the case of Bigelow v. Nickerson, 17 C. C. A. 1, 70 Fed. 113, however, to which reference on this point is made, the question had reference to the state jurisdiction over the waters of Lake Michigan and was quite different from the present; since there the acts establishing the boundaries of the state expressly included the waters of the lake. In that case, moreover, it was assumed that upon the ocean the state jurisdiction extends but a marine league from shore. See, also, Manchester v. Massachusetts, 139 U. S. 240, 11 Sup. Ct. 559. But I doubt whether in fixing the line as above indicated, the secretary of the treasury intended to pass beyond the limit of a marine league, the usually accepted boundary. The Scotland light ship does not exceed that distance from shore, and if from that vessel a line be drawn to a point one marine league south of the western end of Rockaway Beach, that line will pass through the whistling buoy; so that the secretary's line seems to agree accurately with the old rule of jurisdiction, and the accident would be found to be within the state limits.

Upon the view above expressed, however, on the question of negligence, it is unnecessary to consider further the defense that the tort in question was beyond the jurisdiction of the state law; or to consider whether the establishment of an exterior boundary line for the application of the international rules of navigation as distinguished from the rules for harbors and inland waters, would operate as an assertion by the United States of its exclusive jurisdiction beyond a marine league; or whether, if that line were so intended, its extension seaward, based upon the greater range of the United States shore batteries, would ipso facto extend the scope of the state laws over the high seas.

The libel must be dismissed, but without costs.

DUNBAR v. WESTON.

(District Court, N. D. New York. April 5, 1899.)

1 ADMIRALTY — CHARTER PARTY — BREACH — ACTION IN PERSONAM — UNITED STATES DISTRICT COURT—JURISDICTION.

A charter party for the transportation of lumber entirely by boat from the port of shipment to that of destination, is a maritime contract, and therefore the United States district court has jurisdiction of an action in personam in admiralty for its breach.

2. SAME—DEFENSES—EVIDENCE.

Where defendant, having received a lower rate from other shipowners, failed to ship lumber as agreed by a charter party with libelant, which defendant made with the master of the ship, who was an entire stranger to him, and whom he testified he believed was the owner of the vessel, and the entire freight, not being payable until after delivery, was security for the performance of the contract, his defense to an action for its breach, that he was induced to make it by fraudulent representations

that the master was the owner, and that, had he known that defendant was the owner, he would not have chartered the vessel, was not sustained by the evidence.

In Admiralty.

John W. Ingram, for libelant.
Norman D. Fish, for defendant.

COXE, District Judge. This is an action in personam to recover damages for the breach of a charter party. The libel alleges that the defendant chartered the libelant's boats Nellie and Dunbar to carry two full cargoes of lumber from North Tonawanda, on the Niagara river, to the city of New York, via the Erie Canal and Hudson river, at the agreed freight rate of $2 per 1,000 feet. Such a charter is a maritime contract within the jurisdiction of this court. The court is convinced that the agreement was made as alleged in the libel. The principal defense is that the defendant was induced to enter into the agreement by reason of false and fraudulent representations as to the ownership of the two boats in question. It is alleged that he was informed and supposed that they were owned by one Thomas Williams, who was their master, and had he known that the libelant was their owner he would not have chartered them. The proof fails to establish this defense. The circumstances surrounding the transaction were of such a character that there can be little doubt that the defendant, through his agent, knew the facts regarding the chartered boats and that the contract was repudiated because he was able to procure a cheaper freight rate. The character of the libelant was certainly as good as that of Capt. Williams with whom, the defendant contends, the agreement was made. It is said that the defendant did not know Williams but did know Dunbar unfavorably. Upon his own showing the defendant was entirely willing to enter into an agreement with a total stranger, which is hardly compatible with the theory that the owner's character was such an important factor in making the contract. It is entirely clear from the testimony that these charters are made by canal men with very little reference to the character of the owner of the boats. If the boat be staunch and strong and properly manned, and if the motive power be adequate, the charterer seldom institutes an inquiry into the moral or financial standing of its owner. It is not an element affecting the agreement one way or the other, and especially is this so where the entire freight is security for the performance of the agreement. The defendant was not called upon to pay a dollar till the lumber was delivered to the consignee in New York. The court cannot resist the conclusion that this defense would never have been thought of had not Capt. Wimett offered to take the lumber for a less sum than the libelant. The libelant is entitled to a decree.

THE STYRIA (four cases).

(District Court, S. D. New York. April 5, 1899.)

1. SHIPPING—DISCHARGE OF CONTRABAND CARGO.
   Although provisions in a bill of lading permit the discharge of cargo at other ports than that to which it is consigned in case of circumstances of war, which, in the opinion of the master, render it unsafe to enter or discharge there, the master, as agent of all concerned, is bound to exercise prudence to protect the interests of the cargo as well as the vessel, and the discharge of cargo by him at another port, as being contraband of war, is not justified unless the facts show that there was reasonable necessity therefor.
2. SAME—FACTS CONSIDERED.
   The Austrian steamship Styria was loaded at an Italian port with a cargo of sulphur consigned to New York, and cleared on April 24, 1898. On the day before, a Spanish proclamation was issued, declaring the existence of a state of war between Spain and the United States, and in which sulphur was declared contraband. On April 27th, the master, who had not sailed, commenced the discharge of the cargo, which was completed May 7th. Almost immediately after the declaration of war the public prints contained statements of negotiations for the purpose of having sulphur exempted from contraband goods, and repeatedly stated that such efforts would be successful, of which statements the master was aware, and also of the announcement of their success, and he was also notified of such result by one of the shippers before the discharge of the cargo was completed. At the next Italian port, to which he went for a new cargo on May 10th, he heard read an official announcement to the same effect, though it had not been publicly proclaimed. Other vessels sailed at about the same time he cleared with cargoes of sulphur, and were not molested. *Held* that, under the circumstances, it was his duty to wait a reasonable time before discharging the cargo, and, as he had reasonable assurance of safety by May 10th, he was not justified in such discharge.
3. SAME—TRANSSHIPMENT OF CARGO.
   If the vessel in such case was justified in discharging the cargo under a clause of the bill of lading permitting her to transship in case of emergency, rather than to subject herself to a delay of unknown duration, such clause being for the benefit of the vessel alone, on its being ascertained that she might have proceeded within a reasonable time, the cost of the discharge, storage, and reloading must be borne by her.
4. SAME—CONSTRUCTION OF BILL OF LADING—MEASURE OF DAMAGES FOR INJURY TO CARGO.
   A stipulation in a bill of lading limiting the liability of the vessel to the invoice or declared value of the goods does not authorize the carrier to deduct the freight from such value in case of loss or damage.

These were libels by James L. Morgan and others and three other libelants against the Austrian steamship Styria.

Cowen, Wing, Putnam & Burlingham, Sullivan & Cromwell, Bowers & Sands, and Stern & Rushmore, for four different libelants.
Convers & Kirlin, for defendant.

BROWN, District Judge. The above four libels were filed to recover the damages claimed to have been sustained by the libelants, who were the consignees of different lots of brimstone shipped upon the Austrian steamship Styria at Port Empedocle, Girgenti, Sicily, in the latter part of April, 1898, and shortly afterwards discharged at the same port, as contraband goods, on the breaking out of the war