

fair settlement" there will be due respondent five dollars from libellant.

If this answer, which is excepted to by libellant, so far as it seeks the benefit of the set-off, had alleged an agreement that libellant would do this work as pilot or carpenter for respondent on this boat, in payment of what was due by him for the house, the defence would be a good one. It would not be, strictly speaking, pleading a common-law contract as a set-off, but setting up a special maritime contract, which, taken as a whole, would show that the libellant had no cause of action and had been paid for his services. But I do not find any allegation of such an agreement. The answer only says that the libellant was, at the time he shipped on this boat, indebted to the respondent for the house; in one place it says he was indebted in "20 days' work," and in the other, in the balance due on \$125, the price of the house. This is clearly pleading the indebtedness for the house as a set-off, and is by all the authorities inadmissible. 2 Pars. Mar. L. 717; 2 Pars. Ship, 433; *Willard v. Dorr*, 3 Masm. 161; *Bains v. The James and Catharine*, 1 Baldw. 544; *Snow v. Carruth*, 1 Sprague, 324; *Bearse v. Ropes*, Id. 331; *Nichols v. Trimlett*, Id. 361; *Dexter v. Munroe*, 2 Sprague, 39; *Kennedy v. Dodge*, 1 Ben. 311, 315; *The Lady Campbell*, 2 Hagg. Adm. 14, note; sustain the exceptions.

COUILLARD v. STEAMSHIP VICTORIA.

(District Court, D. Massachusetts. — 1880.)

1. NEGLIGENCE—FELLOW SERVANTS.—The owners of a vessel are not responsible for injuries sustained by a stevedore, through the negligence of a fellow servant, while unloading the cargo.
Halverson v. Nisen, 3 Sawy. 562.
Malone v. Western Transportation Co. 5 Biss. 315.

E. L. Barney and *E. J. Hadley*, proctors for libellant.
Brooks, Ball & Storey, for claimants.

NELSON, D. J. The libellant, while employed as a stevedore, in shifting coal in the between-decks of the British steamship *Victoria*, then lying at the wharf in East Boston, was injured by falling into the lower hold, through a hatchway which was negligently left open by other persons employed on board in discharging cargo, and this libel is brought to recover damages for the libellant's injuries. It is unnecessary to decide whether the libel is properly brought against the vessel, for it is clear it cannot be maintained against the vessel, unless it could also be maintained against the owners, and I am of the opinion that the owners are not responsible for the accident. There is no evidence in the case that the steamship was improperly constructed or equipped, or that the officers and men on board were incompetent or unsuitable, or that the accident was caused by any other failure of duty on the part of the owners. The libellant, and the persons through whose negligence the hatchway was left open, were fellow servants, engaged in the same general employment of the owners. It is too well settled to admit of discussion that the master is not responsible to those in his employ for injuries resulting from the negligence, carelessness, or misconduct of a fellow servant. *Halverson v. Nisen*, 3 Sawy. 562; *Malone v. Western Transportation Co.* 5 Biss. 315.

Libel dismissed.

GROGAN v. THE TOWN OF HAYWARD.

(Circuit Court, D. California. October 6, 1880.)

1. DEDICATION OF LAND FOR PUBLIC PURPOSES—DEFINITION.—“A dedication of land for public purposes is simply a devotion of it, or of an easement in it, to such purposes by the owner, manifested by some clear declaration of the fact.”
2. SAME—WHEN IRREVOCABLE.—Such dedication is irrevocable when third parties have been induced to act upon it, and part with value in consideration of it, although it has not been formally accepted by the public authorities.
3. SAME—SAME.—In such case the irrevocable character of the dedication is not affected by the fact that the property is not at once subjected to the uses designed.
Bowan's Executors v. The Town of Portland, 8 B. Mon. 232.
4. SAME—ADVERSE OCCUPATION.—No one can acquire by adverse occupation, as against the public, the right to a street or square dedicated to public uses.
Hoadley v. The City of San Francisco, 50 Cal. 265.
People v. Pope, 53 Cal. 437.

Andros & Page, for plaintiff.*Mastick, Belcher & Mastick*, for defendant.

FIELD, C. J. This is an action for the possession of a parcel of land situated in the town of Hayward, Alameda county. The plaintiff traces title to the premises from one Guillermo Castro, to whom a grant of land, of which they are a part, was made by the former Mexican government. The grant was confirmed by the tribunals of the United States, under the act of March 3, 1851, and a patent was issued to the conferee.

The defendant, the town of Hayward, claims that the premises are a part of a tract dedicated by Castro to the public use of the town previously to the conveyance under which the plaintiff asserts title. The main question for determination relates to the validity and permanence of the alleged dedication.

The facts of the case, as disclosed by the evidence, are briefly these:

In 1854, Castro, being desirous of founding a village or town on his land, selected for that purpose a portion of it,
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