

THE AMSTERDAM.<sup>1</sup>

(District Court, S. D. New York. February 13, 1885.)

1. LIMITATION OF LIABILITY—INJUNCTION.

In proceedings to limit the liability of a vessel, an injunction may issue to restrain the prosecution of suits in a state court.

2. SAME—PERSONAL INJURY.

Claims for damages for personal injuries arising out of the stranding of a vessel are within the provisions of the statute limiting liability.

In Admiralty.

Curzman & Yeaman, for the motion.

J. Joachimsen, for the Amsterdam.

BROWN, J. The steamer Amsterdam having been lost by stranding, and proceedings being thereupon taken in this court by her owners to limit their liability upon payment into court of the appraised value of the vessel and her pending freight, an injunction was issued in accordance with the provisions of rule 54, restraining the prosecution of suits in the state courts. Several suitors, claiming damages for personal injuries arising more or less directly out of the stranding, have asked that the injunction be dissolved on the grounds that there is no statutory authority for the injunction itself; and, *secondly*, because claims for such personal damages are not within the statute. Rule 54 expressly declares that the owners, on complying with the statute, shall be entitled to an injunction order. It is not for this court to overrule the interpretation of the statute put upon it by the supreme court, or the practice they have sanctioned. This rule will not cut off sufficient opportunity to present every legal demand. The causes of action are purely maritime. This court, as a court of admiralty, is at least as appropriate as any other for the hearing of all questions arising in such cases; and every point that can be litigated anywhere can be presented and determined here.

The other question, as to whether personal injuries are within the provisions of the statute limiting liability, was carefully considered by BENEDICT, J., in the case of *The Epsilon*, 6 Ben. 381, and afterwards by CHOATE, J., in this court, in the case of the *Seawahnaka*, (*In re Long Island, etc.*, *Transp. Co.* 5 FED. REP. 599, 624;) and in both cases it was held, upon full consideration, that such actions are within the provisions of the act. The reasons for the conclusions there given commend themselves to my judgment, and this application must, therefore, be denied.

<sup>1</sup> Reported by R. D. & Edward Benedict, Esqs., of the New York bar.

PARSONS v. MARYE and others.<sup>1</sup>

(Circuit Court, E. D. Virginia. February 11, 1885.)

## 1. FEDERAL JURISDICTION—SUITS AGAINST STATE OFFICERS—MANDATORY INJUNCTIONS.

Although a state, without its consent, cannot be sued as an individual, yet where a plain official duty, requiring no exercise of discretion, is to be performed by a state officer, and the performance is refused, any person who will sustain a personal injury by such refusal may have a *mandamus* to compel performance; or, where *mandamus* is not available, may have a mandatory injunction for that purpose; and when such duty is threatened to be violated by some positive official act, any person who will sustain personal injury thereby, for which adequate compensation cannot be had at law, may have an injunction to prevent it.

## 2. SAME.—A federal court has jurisdiction over a state officer, in questions arising under the constitution, laws, etc., of the United States, where the law has imposed upon him a well-defined duty in regard to a specific matter not affecting the general powers or functions of government, but in the performance of which one or more individuals have a distinct interest, capable of enforcement by judicial process; and when it shall be necessary to enforce the rights of the individual, a court of chancery may, by a mandatory decree, or by injunction, compel the performance of the appropriate duty, or enjoin the officer from doing what is inconsistent with that duty and with the plaintiff's rights in the premises.

3. SAME—VIRGINIA COUPONS—CASE AT BAR.—A non-resident holder of Virginia coupon bonds makes arrangements with sundry tax-payers to purchase and use in payment of license taxes due the state the coupons cut by him from his bonds, by which arrangement he would receive payment in large part for his coupons; the tax-collecting officers, as required by state laws, have in various ways published that coupons would not be received in payment of such taxes; the state law allowing tax-payer to sue for purpose of verifying coupons had been repealed as to license taxes, and the writ of *mandamus* had been taken away from tax-payer in all coupon cases. The bondholder brought his bill in equity in the United States circuit court against the state auditor and the collecting officers of Richmond city to enjoin them from refusing to receive his coupons, and to have a specific performance of the state's contract to receive them, as evidenced on their face; the genuineness of the coupons was not denied in the answer, nor put in issue. *Held*: (1) The court has jurisdiction of the case and the parties, and may grant the relief prayed for. (2) A court of equity has power to award mandatory injunctions as part of its general jurisdiction. (3) A tender of the coupons was not necessary to entitle the complainant to bring his bill, the state having in numerous ways published that they would not be received. (4) Section 114 of the Virginia assessment act of March 15, 1884, by repealing section 3 of the act of January 14, 1882, took away the right to verify coupons when offered in payment of license taxes, which had been pronounced an adequate remedy in *Antoni v. Greenhow*, 7 Va. Law J. 218; S. C. 2 Sup. Ct. Rep. 91, and left the tax-payer without power to use coupons in paying license taxes, and without remedy against the state. (5) The genuineness of the coupons not being put in issue, must be taken as admitted by the defendant. (6) In making the contract of the tax-receivable coupon, the state virtually waived the benefit of plenary proceedings in suits against her officers to enforce it, in cases wherein the genuineness of the coupons is not put in issue; and it would seem that the state, in agreeing to receive the coupons, has waived the right to a plenary defense in all suits for specific performance of the contract in which she does not deny the genuineness of the coupon.

Motion for a Preliminary Injunction.

*R. L. Maury and D. H. Chamberlayne*, for complainant.*The Attorney General*, for defendants.<sup>1</sup>From the Virginia Law Journal.