

THE DICTATOR.<sup>1</sup>

STREET and others, Agents, v. ASHLEY PHOSPHATE Co.

(District Court, South Carolina. March 31, 1887.)

## 1. ADMIRALTY—PLEADING—DENIAL.

An answer must admit or deny each allegation of the libel, in order that the libelant may know what issues he must meet. The omission to notice an allegation in the libel does not, as in code pleading, admit it.

## 2. SAME—EXCEPTIONS.

Exceptions should not be general, they should briefly, but clearly, specify by line and page the points excepted to.

In Admiralty. Libel *in personam* for demurrage.

Motion by libelants that the answer be amended.

*Bryan & Bryan*, for libelants.

*Hayne & Ficken*, for respondents.

SIMONTON, J. The libel set out in distinct articles the several facts upon which the libelant relied. The answer, following the form used in civil proceedings under the state Code of Procedure, ignored the allegations of the first and second articles of the libel. The libelant files his exceptions to the answer as incomplete, and not responsive. Our rule (No. 1, district court) requires that the libel must state plainly the facts on which relief is sought. "The adverse party must understand what is the precise charge which he is required to answer, and make up an issue directly on the charge." Ben. Adm. § 372. For the same reason, the answer must admit or deny each allegation of the libel, in order that the libelant may know what issues he must meet. It is best to answer the articles in the order in which they are stated. The omission to notice an allegation of the libel does not, as in code pleading, admit it. The mode of exception to the form of allegations, either in the libel or in the answer, is regulated by our rule 41. "The exceptions shall briefly and clearly specify the parts excepted to by line and page of the papers in the clerk's office." A general exception as to form will not be allowed. The precedent suggested by Mr. Benedict (Adm. 669) will be followed in this court.

Let the answer be amended.

<sup>1</sup> Reported by Theodore M. Etting, Esq., of the Philadelphia bar.

## THE FAIRFIELD.

## THE MARY ODELL.

## ESTILL and others v. THE FAIRFIELD, etc.

(District Court, S. D. Georgia, E. D. February 22, 1887.)

## 1. SALVAGE—ABANDONMENT—REMUNERATION.

Where a schooner is run aground on an exposed bank, six miles out to sea, begins to pound heavily, and is abandoned by the master and crew, and is found by another vessel the next day eleven miles out to sea, and drifting seaward, abandoned, with the hatches open, and the waves dashing over the deck, and in danger of filling, she is derelict, notwithstanding the master may have intended to return to her.

## 2. SAME—AMOUNT ALLOWED—REMUNERATION.

"The principles on which the court of admiralty proceed, lead to a liberal remuneration in salvage cases; for they look not merely to the exact *quantum* of service performed in the case itself, but to the general interest of the navigation and commerce of the country, which are generally protected by exertions of this nature." Lord STOWELL.

## 3. SAME.

Five hundred dollars allowed in this case for salvage services.

(*Syllabus by the Court.*)

In Admiralty. Libel *in rem* for salvage services.

*Lester & Ravenel*, for libelant.

*George W. Owens*, for claimant.

SPEER, J. On the twenty-ninth day of October, 1886, the pilot-boat Mary Odell, W. J. Thompson, master, was cruising off the mouth of the Savannah river. About 10 miles north-east of Tybee light the Mary Odell sighted a schooner drifting out to sea. The schooner was abandoned, though not damaged. There was no one aboard of her. The pilot boat hauled up for her, and having boarded her, found that she was the Fairfield, of Wilmington, North Carolina, with a cargo of rough rice. A portion of the crew of the Mary Odell was put aboard of her, and she was carried into the harbor of Savannah, and she was there libeled for salvage, and with her cargo was sold by the United States marshal, bringing altogether the sum of \$2,051.51. Joseph A. Roberts, a shipping merchant of Savannah, for the owners of the Fairfield, filed a claim to the proceeds arising from the sale, and the question to be determined is what amount of salvage shall be allowed the owners and crew of the Mary Odell.

There is no serious dispute about the facts. It appears from the testimony of the master of the Fairfield that he left the Savannah river with a crew of negroes and a negro pilot; that his pilot ran him aground about six miles from Hilton Head, at a place which another witness, Sisson, the light-keeper at Hilton Head, testified was the outer edge of the Gaston bank; that his vessel began to pound pretty heavily, and that his crew at once announced their intention to leave him, and go ashore.