

BARRON v. LOCKE.

Case No. 1,054,  
[7 Leg. Int (1850.) 203.]

District Court.

ADMIRALTY PRACTICE—RULES OF  
COURT—WAGES—FORFEITURE—DEFENSES—EVIDENCE.

In admiralty. Libel by Barron against Locke, master of the schooner George S. Jones, for seaman's wages. [Decree for libellant]

Libellant's counsel objected to evidence by respondent on the ground that no written answer had been filed, claiming right to do so under the rules of the supreme court, made under Act Cong. [Aug. 23,] 1842, [section 6, 5 Stat. 518.]

"The rules of the supreme court were not intended," THE COURT said, "to change the rules of the district courts as to seaman's wages. There can be no objection to hearing the defense without an answer."

The defense is that the seaman is not entitled to the small balance claimed, because he had not been discharged from the vessel, and that leaving without being discharged forfeited the wages due. On the other hand, it was in evidence that the seaman was sick, and unable to be on board ship. It would be hard and unjust, the court contended, to hold him to a literal performance. His sickness is an excuse, and therefore the balance of wages must be decreed, with costs.