

Case No. 1,698.

BOURNE v. ASHLEY.

District Court, D. Massachusetts.

June, 1863.

WHALE FISHERY—PROPERTY RIGHTS IN WHALE—CUSTOM AXB
USAGE—SUFFICIENCY.

- {1. A whale belongs to the ship from which the first iron is placed, though the actual killing is by the crew of another vessel, or they take part therein.}
- {2. By long usage, the first iron, whether attached to the boat or not, holds the whale.}
- {3. Though local usages of a particular port will not supersede the general maritime law, yet this doctrine does not apply to a custom embracing an entire business, and concurred in for a long time by persons engaged therein.}

{Cited in *Swift v. Gifford*, Case No. 13,096; *Ghen v. Rich*, 8 Fed. 161.}