

Case No. 2,386a.
[Betts' Scr. Bk. 554.]

CANNON ET AL. V. VOSE ET AL.

District Court, S. D. New York.

May 18, 1857.

CHARTER PARTY—PAYMENT OF CHARTER MONEY.

[In admiralty. Libel by William Cannon against Francis Vose and others. Reference ordered.]

Platt, Gerard & Buckley, for libelants.

Benedict, Burr & Benedict, for respondents.

BETTS, District Judge. This was a libel filed by the owners of the brig Excelsior to recover from the defendants an alleged balance of \$550 upon a charter of the brig to them for a voyage to Port au Prince and back for the sum of \$1,400, of which one-half was by the charter to be "considered earned and due on discharge of outward cargo, but payable by the charterers in New York, except what might be required for disbursements in Hayti to the amount of \$150." The one-half of the charter money was admitted to have been received and \$150 of the other half. The respondents set up that the master of the brig allowed her to be seized for debts incurred for her at Port au Prince, and they advanced moneys there to free the vessel to the amount of \$511.10, and the balance, \$188.90, they paid after suit brought. The question was whether what they had paid at Port au Prince was to be credited upon the charter money beyond the \$150 specified in the charter.

Ordered, that it be referred to a commissioner to ascertain whether the sum of money paid by the respondents to the master of the vessel at Port au Prince, or upon his draft at that place, or paid the libelants since the commencement of the suit, satisfies in full the \$700 payable on the charter party, together with costs of suit due at the time of payment thereof.