

THE SUNSHINE.

{1 Brown, Adm. 75.}¹

District Court, N. D. Ohio.

June, 1859.

TENDER—PRACTICE IN ADMIRALTY.

A tender after suit brought must include costs, though the process has not been served.

An attachment was issued against the Sunshine upon a libel filed by one Kimball. The marshal returned that the vessel could not be found in his district. Afterwards the owner came into court, tendered the amount of the debt claimed in the libel, but without costs.

Willey & Carey, for libellant.

Ranney, Backus & Noble, for respondent, insisted that the claimant was not bound to include costs in the tender, as there had been no arrest of the vessel.

WILLSON, District Judge. The tender should include not only the debt, but all costs incurred up to that time, notwithstanding the vessel has never been seized. The filing of the libel and the delivery of the writ to the officer is a commencement of suit which entitles the libellant to costs. Decree for libellant.

¹ {Reported by Hon. Henry B. Brown. District Judge, and here reprinted by permission.}

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