

Case No. 17,311.

{1 Wall. Jr. 343.}¹

WEAVER v. THOMSON.

Circuit Court, E. D. Pennsylvania.

Oct. 5, 1849.

ADMIRALTY—APPEALS—AMENDMENT OF LIBEL.

An appellee in admiralty may amend in this court the libel he has filed in the district court, so as to make a claim here for damages above costs, caused by a vexatious appeal.

[Cited in *The Charles Morgan v. Kouns*, 5 Sup. Ct. 1175, 115 U. S. 76.]

{Appeal from the district court of the United States for the Eastern district of Pennsylvania.}

The district court having given a decree in admiralty, [case unreported,] the libellee, who had been cast, appealed to this court. The libellant below—the appellee here—now setting forth that the appeal was for delay merely, and vexatious, and that he had been greatly injured by the mere fact of the delay, Mr. Vandyke asked leave to amend the libel originally filed in the district court, so as to make a further claim for damages, above costs, thus caused by appellant's act.

GRIER, Circuit Justice. I have repeatedly expressed my design of discouraging appeals unless there was some substantial grounds for them in a manifest error in the decree of the court below. In questions particularly of mere fact, and in those, like salvage, depending on sound discretion, I discourage them because they lead to speculations on the temperaments and dispositions of the respective judges, and are taken on a little besides a calculation of chances. Where the want of ground for the appeal is so obvious as to shew that the case must have been carried up here for delay merely, I see no objection to allowing a party to recover damages for any injury done by the delay to which he has thus put his opponent in a vexatious and unreasonable way. Amendment allowed.

¹ [Reported by John William Wallace, Esq.]