

THE ASHLAND.¹

Circuit Court, E. D. Louisiana. December, 1883.

1. PRACTICE—APPEAL—REMITTITUR.

Where a judgment was rendered by the district court against claimants for an appealable amount, and thereafter proctor for libelants offered to enter a *remittitur* of so much of the judgment as to reduce it below the appealable amount, and the district court refused to allow the *remittitur*, *held*, that it was within the discretion of the district judge to allow or refuse to allow the *remittitur* to be entered.

Ins. Co. v. Nichols, 3 Sup. Ct. Rep. 120, followed.

2. SAME.

A *remittitur* comes too late when offered to be entered after an appeal has been allowed.

On Motion to Dismiss Appeal in Admiralty.

R. King Cutler, for libelants.

A. G. Brice, Joseph P. Honor, and *F. W. Baker*, for claimant.

PARDEE, J. It appears from the transcript that on June 7, 1883, the judgment was rendered in the district court for \$51. On the same day a motion for appeal was made and allowed. June 9th a bond was given and accepted. June 11th the decree was signed by the district judge, and on the same day a *remittitur* of one dollar “was filed, but not entered on the minutes, nor allowed by the court.” The motion to dismiss must be overruled and refused because (1) the *remittitur* was not allowed by the court. *Alabama Gold Life Ins. Co. v. Nichols*, 3 Sup. Ct. Rep. 120. (2) It came too late after an appeal was allowed and perfected.

Order accordingly.

¹ Reported by Joseph P. Hornor, Esq., of the New Orleans bar.

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