

THE J. W. DENNIS.

District Court, N. D. New York. March 28, 1884.

RETAINING OF VESSEL BY A SHIP-KEEPER.

A vessel which has been detained by a ship-keeper, pending a controversy, must be delivered up to her owner immediately upon the settlement of the suit. The marshal will not be justified in employing a ship-keeper after the suit has been settled, merely because a formal order of discontinuance has not been entered.

In Admiralty.

This is a motion in the nature of an appeal from the taxation of the marshal's bill of costs, by the clerk. The marshal employed a ship-keeper at \$2.50 per day to take charge of the libeled vessel. The clerk allowed the bill at \$1.75 per day. Various affidavits were submitted by the parties. Some to the effect that the amount was too high; others that it was a very reasonable charge for the work done. It appears from the affidavits that the controversy between the parties has been settled, though no formal order to that effect has been entered. It also appears that since the settlement and the taxation by

the clerk as aforesaid the ship-keeper has retained possession of the vessel and has demanded pay for his services.

George N. Loveridge, for motion.

James A. Murray, opposed.

COXE, J. I have read with care all of the affidavits and papers submitted in this case and have reached the conclusion that the bill of costs and disbursements as taxed by the clerk, February 28, 1884, cannot with propriety be reduced. As the stipulation limits the inquiry to the items of that bill, I express no opinion upon the question as to the right of the ship-keeper

to compensation since that day. There should be no delay, however, if the controversy is settled, in discontinuing the action and restoring the vessel to her proper owner.

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