

of a book, or of a map or a chart, should be printed on a sheet, still only one penalty would be incurred, for the statute did not give a penalty at all for a copy of anything, but only a penalty for a sheet on which some, more or less, of what had been copyrighted was printed. The 50 cents have been increased to \$1, and with this addition these provisions have been continued ever since as to maps and charts. Photographs were added to the subjects of them in 1865; and the whole have been brought into this section 4965, (13 Stat. 540.) The same number of forfeitures would be incurred now by printing copies of maps and charts and having sheets of copies found in possession as would have been under the original act; and the same number would be incurred as to photographs as would be as to maps or charts by the same number of sheets of copies. *Taylor v. Gilman*, 23 Blatchf. 325, 24 Fed. Rep. 632. Cutting up the sheets would not increase their number, any more than binding the sheets of a book and cutting them into leaves would. *Backus v. Gold*, 7 How. 798. Therefore, if the sheets had been found divided into 2,400 lithographs, the whole might not be only 115 or 116 sheets. Whether the number was 115 or 116 was in doubt, and upon the evidence the jury were well warranted in finding only 115. The verdict appears to be right.

Motion overruled. Judgment on verdict.

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MIGNANO et al. v. McANDREWS et al.<sup>1</sup>

CALIFANO et al. v. SAME.

(Circuit Court of Appeals, Second Circuit. May 19, 1892.)

**TENDER—MONEY PAID INTO COURT—POWER OF COURT ON APPEAL.**

Money deposited in a district court as a tender by respondents in an admiralty cause remains in that court pending an appeal from a decree for libelants, and the circuit court of appeals has no control over the money, or over the district court in regard to it, except when the cause is reviewed and determined and remanded for further proceedings.

Appeals from the District Court of the United States for the Southern District of New York.

Motions by appellees for payment to them of money paid into court by appellants. Denied.

For former reports, see 51 Fed. Rep. 300, and 49 Fed. Rep. 376.

Libels in personam by Andrea Mignano and another against Robert McAndrews and another, and by Gaspare Califano and another against the same, to recover balances claimed to be due on charters of vessels of libelants, respectively. Respondents, having tendered to each libelant an amount less than that claimed, deposited the same in the registry of the district court, and, in their answers, admitted said amounts to be due, and pleaded the tender and deposit. In both cases, decrees were rendered for libelants for the full amounts claimed, with interest and costs. Respondents appealed, assigning as errors only the amount of the decree in each case, and that the decree should have been for the amounts admitted to be due. Appellees move for an order directing the payment to them of the moneys deposited by respondents.

<sup>1</sup>See 53 Fed. Rep. 958.

Charles C. Burlingham, (Wing, Shoudy & Putnam, on the brief,) for the motion.

George Bethune Adams, opposed.

Before WALLACE and LACOMBE, Circuit Judges.

PER CURIAM. Upon further consideration of the application made in this cause to direct the district court to pay to the libelants the moneys deposited as a tender by the respondents in the registry of that court, we have concluded that we have no authority to interfere. The only power of this court over the cause is by virtue of its statutory authority to review and determine the cause, and, of course, to make all orders incidentally necessary for that purpose. As this court does not execute its own decrees, (section 10, Court of Appeals Act,) the funds upon an appeal from the district court in an admiralty cause remain in the district court. This court has no control over them, or over the district court in respect to them, except when the cause is reviewed and determined and remanded for further proceedings, in pursuance of the determination. Motion denied.

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PENNSYLVANIA R. CO. v. MANHEIM INS. CO.<sup>1</sup>

(District Court, S. D. New York. April 24, 1893.)

1. MARINE INSURANCE—CONDITIONS OF POLICY—CONSTRUCTION.

The policy of insurance on libelant's goods contained the following provision: "It is understood and agreed that in case any agreement be made by the assured with any carrier, by which such carrier stipulates to have, in case of any loss for which he may be liable, the benefit of this insurance, then, in that event, the insurers shall be discharged of any liability for such loss hereunder." The through bill of lading under which libelant's goods were transported contained this stipulation: "And any carrier by water, liable on account of loss of, or damage to, any of said property, shall have the full benefit of any insurance that may have been effected upon, or on account of, said property." *Held*, that the application of the clause in the policy must be confined to those cases, only, when the carrier was liable for the loss, and that the policy remained in full force as respects losses by sea perils, for which the carrier was not legally responsible.

2. SAME—DAMAGE TO LIGHTER—UNKNOWN OBSTRUCTION.

Where a lighter belonging to one carrier, a railroad company, loaded with libelant's goods, was directed by the employes of a second carrier, a steamship line, to move in a slip, and in so moving she grounded on a shoal in the slip, and was then pierced by a log, the existence of which was up to that time unknown, it was *held* that the damage was not caused by negligence of either of the carriers, and that the insurance company which had insured the cargo was liable.

In Admiralty. Libel by the Pennsylvania Railroad Company against the Manheim Insurance Company on policy of marine insurance. Decree for libelant.

Robinson, Biddle & Ward, for libelant.

Butler, Stillman & Hubbard, for respondent.

<sup>1</sup>Reported by E. G. Benedict, Esq., of the New York bar.