

of admiralty, and it is the duty of the court to protect them. Receipts or releases given by them, even with all the solemnity of sealed instruments, will have no effect, beyond the actual consideration fairly paid. *The Rajah*, 1 Spr. 199, Fed. Cas. No. 11,538.

The court has been asked to determine whether the libelants were in fact as well and sufficiently fed as seamen should be, in compliance with the spirit of the shipping articles; but for the purposes of this suit it is not necessary to decide that question, and if it was I should have some doubt about the proper answer. The men did not receive their allowance of pork; the shortage being 440 pounds, which was made up by the issue of beef,—a cheaper article,—although there was a barrel of pork, weighing 200 pounds, left over. The testimony has convinced me that there was a very considerable shortage in the allowance of bread, which was not, and could not be, made up by a surplus of one or more of other kinds of food.

A decree will be entered for the libelants excepting Thomas Smith, Adam Biedermann, and L. Goldspring, for bread shortage for 128 days, at 50 cents per day, amounting to \$64 for each; for Thomas Smith (deducting his 21 days' service in the cabin, where he was well fed), 107 days, at 50 cents per day, amounting to \$53.50; for Adam Biedermann, 21 days before the mast, at 50 cents per day, amounting to \$10.50; for L. Goldspring, 22 days before the mast, at 50 cents per day, amounting to \$11. Total amount, \$971.

THE FULTON.

LAYTON v. THE FULTON.

(District Court, S. D. New York. June 19, 1894.)

COLLISION—STEAM VESSELS CROSSING—OBSTRUCTING FERRYBOAT'S SLIP.

A ferryboat was struck, while entering her slip, by the stem of a steamboat, which was maneuvering, at an adjoining pier, to swing her stern into her own slip, and it appeared that the ferryboat was entering her slip in a proper manner, and that her side, when struck, was 30 feet from the corner of the pier, and that the steamboat's stem penetrated the ferryboat's side some 15 inches, showing that the steamboat was under headway at the time of collision. *Held*, that the collision was caused by the encroachment of the steamboat upon the entrance to the ferryboat's slip, owing to her inattention to the approach of the ferryboat, and that the steamboat was therefore liable for the collision.

Libel for collision between the ferryboat *Fulton* and the steamer *Sylvan Dell*.

Man & Protheroe, for libelant.

Hyland & Zabriskie, for defendant.

BROWN, District Judge. At about 10 o'clock a. m. of September 21, 1886, as the *Fulton* ferryboat *Fulton* was entering her slip on the New York side, immediately below pier 22, the stem of the libelant's passenger steamer *Sylvan Dell*, which had come down the river and was endeavoring to make a landing at pier 23, struck the starboard side of the ferryboat a few feet ahead of the paddle box,

and very near the middle of the boat. The tide was slack high water. The ferryboat approached her slip in the usual manner, and at the time of collision, as is shown by the great weight of evidence, her bow was at least 30 feet inside of her slip, heading a little down river; and her side was about 30 feet from the southerly corner of pier 22. By the force of the collision, the stem of the Sylvan Dell was broken, and the planks carried away a little on her port side, but much more on her starboard side. Her stem cut through the plank sheer of the Fulton, some 15 inches into the cabin. This latter circumstance is of itself conclusive evidence that the Sylvan Dell at the time of collision was moving ahead, and with considerable force. The blow was about a right-angled one. The Sylvan Dell was endeavoring to swing her stern by a hawser around the end of pier 22, so as to back up into the slip between pier 22 and pier 23, and she was maneuvering for that purpose. The position of the ferryboat at the time of the collision leaves no doubt that the stem of the Sylvan Dell was encroaching upon the entrance to the ferryboat's slip. This was unnecessary, as there was space enough for the Sylvan Dell to swing her stern and back into her slip without impeding the entrance of the ferryboat. I find, therefore, that the collision was owing to the lack of proper attention on the part of the Sylvan Dell to the ferryboat, and to her entrance of her slip, and not to any drifting up by the ferryboat against the stem of the Sylvan Dell. The position and course of the ferryboat were entirely proper in entering her slip, and her pilot had no reason to suppose that the Sylvan Dell in her maneuvers would come down so far as to interfere with his entrance; and, when the Sylvan Dell started ahead, the Fulton was so far forward as to make avoidance of the collision by her impossible. The West Brooklyn, 45 Fed. 60. I must find the fault of the collision, therefore, to have been wholly with the Sylvan Dell; and the libel must, therefore, be dismissed, with costs.

GOULD v. GRAFFLIN.

(District Court, D. Maryland. July 10, 1894.)

DEMURRAGE—LIABILITY OF CHARTERER—READINESS TO TAKE CARGO.

A schooner was chartered to load a full and complete cargo, not exceeding 1,150 tons; but her master, on tendering her, stated that she had been leaking, and asked to have 500 or 600 tons furnished, and, if that did not increase the leak, so much more as she could safely carry. *Held*, that the charterer was justified in refusing this, and was not liable for the delay until the master, after a survey, gave notice that he would take a full cargo.

This was a libel by Moses M. Gould, master of the schooner Florence, against George W. Grafflin, charterer of said schooner, for demurrage for detention of the vessel by delay of defendant in furnishing cargo.

Robert N. Smith, for libellant.

T. M. Lanahan and Frank Gosnell, for respondent.