

**Ward Vs. Thompson**

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**Court :** US Supreme Court

**Decided On :** 1859

**Appeal No. :** 63 U.S. 330

**Appellant :** Ward

**Respondent :** Thompson

**Judgement :**

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**Ward v. Thompson**

**63 U.S. (22 How.) 330**

*APPEAL FROM THE CIRCUIT COURT OF THE UNITED*

*STATES FOR THE DISTRICT OF MICHIGAN*

## **SYLLABUS**

Where certain parties joined together to carry on an adventure in trade for their mutual benefit -- one contributing a vessel, and the other his skill, labor, experience &c.; -- and there was to be a communion of profits on a fixed ratio, it

was a contract over which a court of admiralty had no jurisdiction.

THIS was an appeal from the circuit court of the United States, sitting in admiralty, for the District of Michigan.

This was a libel filed by Eber B. Ward against Charles Thompson in the district court of the United States in a cause of contract, civil and maritime. The ground of the libel was the agreement which will presently be reported. The district court dismissed the libel, which decree was affirmed by the circuit court upon an appeal. The libellant brought the case up to this Court.

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Mr. justice GRIER delivered the opinion of the Court.

The articles of agreement containing the contract, which is the subject matter of this suit, are denominated in the libel a charter party of the steamboat *Detroit* to respondent. The answer denies that he had chartered the vessel, and alleges that the writing declared on is a contract of partnership, and

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not a charter party. The circuit court agreed with the respondent as to the construction of the contract, and consequently dismissed the bill.

A court of admiralty takes cognizance of certain questions between part owners as to the possession and employment of the ship, but will not assume jurisdiction in matters of account between them. [Orleans v. Phoebus](#), 11 Pet. 175. It is not disputed that a contract of partnership in the earnings of a ship comes within the same category. If the party desires an account, his remedy is in a court of chancery. If his complaint be for a breach of some independent covenant, he should seek his remedy in a court of common law.

A charter party is defined to be

"a contract by which a ship, or some principal part thereof, is let to a merchant, for the conveyance of goods on a determined voyage to one or more places."

A contract of partnership is where parties join together their money, goods, labor, or skill, for the purposes of trade or gain, and where there is a community of profits.

The only characteristics of a charter party to be found in this contract are that the subject of it is a ship and that libellants are owners. There is no letting or hiring of the ship to the respondent for a given voyage, to be employed by him for his own profit. On the contrary, the Wards contributed a steamboat, to be put into a line for freight and passengers, which has also a contract for carrying the mail. Thompson contributes the good will of an established line, together with his care, skill, and experience. He is to have the general management of the business and the selection of the officers and crew, but the clerk, or receiving and disbursing agent is to be appointed by the Wards, and to be under their control.

The receipts of the steamer are to be applied:

1st. To pay expenses.

2d. Insurance.

3d. Six thousand dollars to Ward.

4th. Three hundred to Thompson.

5th. The balance of the profits to be equally divided.

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Here we have everything necessary to constitute a partnership:

1st. The parties have joined together to carry on a certain adventure or trade, for their mutual profit -- one contributing the vessel, the other his skill, labor, and experience &c.;

2d. There is a communion of profits, on a fixed ratio.

Of such a contract a court of admiralty has no jurisdiction.

*The decree of the circuit court is therefore affirmed, with costs.*

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