

said: "No such wrong being alleged, none is to be presumed."

See also *White v. Crisp*, 10 Ex. 312; "The Columbus," 3 W. Rob. 158; "The Swan," 3 Blatch. Cir. Ct. Rep. at 288; "The Franconia," 16 Fed. Rep. 149; Coulson and Forbes' Law on Waters, 438; Gould on Waters, sec. 98.

From these analyses of enactment and precedent, must it be held that an allegation of negligence or default in connection with the disaster ought to appear?

The common law does not reach defendant, indeed, it is not seriously disputed on the part of the Crown that he must be held under our statute, if at all.

The rule is that if a vessel is sunk by accident, and without any default of the owner or his servant, no duty is ordinarily cast upon him to remove it or use any precaution by placing a buoy or light to prevent other vessels from striking against it, except for so long as he remains in possession and control of it. The liability ceases when the control ceases.

I regard the statute as superseding the common law to the extent expressed in its provisions, or fairly implied in them, in order to give them full operation. Endlich, section 127. It makes no exception as to the acts of God, or *vis major*, and I cannot, therefore, see why either should be alleged. I am not called upon to decide if these would be lawful grounds of defence, but it may be said that the House of Lords in the *Arrow Shipping company* case adopted a rigid and far-reaching interpretation to the effect that they would not. I have, therefore, to hold that under the statute it is not necessary to allege more than its provisions call for, and that the information did not need to affirm wrong-doing on the part of the owner or his servants.

Ownership.

With reference to the question of ownership, his lordship said:—"My lords, when I examine the language of the section, it appears to me to point, not to ownership at the time the obstruction is created, but to ownership at the time the expense of removing it is incurred."

Lord Watson said:—"I agree with the Lord Chancellor in thinking that their abandonment of a sunken ship in the open sea, *sine animo recuperandi*, had divested the appellants of all proprietary interest in the wreck, before the respondent commenced operations, with a view to its removal. It is clear to my mind,