

(L)
CG-MMM-100.18
SS MARKAY

DEPARTMENT OF JUSTICE
WASHINGTON 25, D. C.

19 July, 1944

June 28, 1944

msb

Hon. Francis M. Shea
Assistant Attorney General
Department of Justice
Washington 25, D. C.

FILE
F. D.

Sir:

Admiral R. R. Waesche,
The Commandant

Reference is made to your letter of 28 June, 1944, relative to the case of United States v. SS MARKAY, file No. FMS:JFS, 62-239.

The files at Coast Guard Headquarters contain no information relative to the case. It is believed that any information in the possession of the District Office of the Coast Guard has already been furnished directly to the United States Attorney.

By direction of the Commandant.

Libel file
Very truly yours,
Judicial District: SD of Texas, Galveston Division
Amount of damages claimed: \$2,500 - medical penalty
Received: June 16, 1944 - by regular mail.

Sir:

We enclose for you a copy of a libel said to have been filed **Chief Counsel** in the caption above.

Please let us have any information in your possession with respect to this case.

Respectfully,

For the Attorney General,

Francis M. Shea
U. S. COAST GUARD
Francis M. Shea
Assistant Attorney General.
MAIL SECTION (1)
MAILED JUL 13 1944

DECLASSIFIED
Authority NN3-26 83-11
By 44 NARA. Date 7/26/17

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Enclosure No. 32774

JE 2
STAMPS

ENCLOSURE

ADDRESS REPLY TO
"THE ATTORNEY GENERAL"
AND REFER TO
INITIALS AND NUMBER

DEPARTMENT OF JUSTICE
WASHINGTON 25, D. C.

FMS:JFS

62-239

June 28, 1944

rmb

Admiral R. R. Waesche,
The Commandant,
United States Coast Guard,
Washington 25, D. C.

Re: United States v. SS MARKAY, owned by
F.A. Lallier, Houston, Texas - (Violation:
Oil Pollution Act) - Admiralty No. 1816

Libel filed: June 9, 1944
Judicial District: SD of Texas, Galveston Division
Amount of damages claimed: \$2,500 maximum penalty
Received: June 16, 1944 - by regular mail.

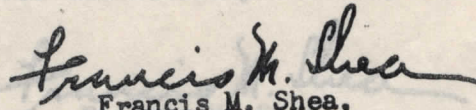
Sir:

We enclose for your information a copy of a libel said
to have been filed as indicated in the caption above.

Please let us have any information in your possession
with respect to this case.

Respectfully,

For the Attorney General,


Francis M. Shea,
Assistant Attorney General.

Enclosure No. 32774



File: 27-A2420

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

UNITED STATES OF AMERICA

-vs-

ADMIRALTY NO. 1816

STEAMSHIP "MARKAY", owned
by F.A. Lallier, Houston,
Texas

LIBEL

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now ~~XXXXXXXXXXXXXXXXXXXX~~ ^{BRIAN S. ODEM}, United States Attorney

for the Southern District of Texas, prosecuting for and on behalf of the United States of America in a suit for penalty under the navigation laws of the United States, and files this libel in rem against the STEAMSHIP "MARKAY", owned by F. A. Lallier, Houston, Texas, and alleges:

I. That libellant is a corporation sovereign and body political; that the STEAMSHIP "MARKAY" is a vessel which, at the time and place hereinafter set forth, used oil as fuel for the generation of propulsion power, and that said STEAMSHIP "MARKAY" is now, or during the currency of process herein will be, in the Southern District of Texas, and within the jurisdiction of this Honorable Court.

II.

That on or about the 17th day of July, A.D. 1943, in Galveston County, Texas, and within the jurisdiction of this Court, said STEAMSHIP "MARKAY" was tied up in the vicinity of Pan American Dock No. 2, Texas City Harbor, Texas City, Texas, and that while so tied up at the aforesaid dock or in its vicinity the said STEAMSHIP "MARKAY" did unlawfully discharge into and upon the waters of the said Texas City Harbor, Texas City, Texas, a quantity

of oil, commonly termed petroleum, the exact kind and character of which being unknown to libellant but peculiarly within the knowledge of the person in command or in charge of said vessel, and the person in command or in charge of said vessel did unlawfully suffer and permit the discharge by said STEAMSHIP "MARKAY" of a quantity of oil, commonly termed petroleum, the exact kind and character of which being unknown to libellant, but peculiarly within the knowledge of the person in command or in charge of said vessel, into and upon the waters of the Texas City Harbor, coastal navigable waters of the United States as aforesaid, while tied up to the above described dock, contrary to the form of the statute in such case made and provided.

III.

That at the time the said STEAMSHIP "MARKAY" discharged, and the person in command or in charge of said vessel permitted and suffered it to discharge, said oil into and upon the waters of the Texas City Harbor, the STEAMSHIP "MARKAY" was not involved in any emergency imperiling life or property, and was not in danger of unavoidable accident, collision or stranding; and that neither said vessel nor the person in command thereof, had any permit by the Secretary of War to discharge said oil upon the waters of said Texas City Harbor.

IV.

That by so unlawfully discharging said oil into and upon the waters of the Texas City Harbor, and so unlawfully suffering and permitting said oil to be discharged upon said waters STEAMSHIP "MARKAY" became and is now liable and indebted to the libellant in the sum of Twenty-five Hundred Dollars (\$2500.00) for and as a penalty; and that said penalty in the sum of \$2500.00 constitutes a lien on said vessel in favor of libellant.

V.

That said penalty has not been paid to libellant, and is now due and owing.

Wherefore, libellant prays that this Honorable Court issue process of attachment, monition and warrant of seizure in due form of law, according to the course of this Honorable Court in causes of admiralty and maritime jurisdiction, against the STEAMSHIP "MARKAY", its engine, furniture, tackle and apparel, and that upon hearing said STEAMSHIP "MARKAY" be adjudged to be liable and indebted to libellant for the penalty herein sued for, and that said penalty be adjudged to be a lien on said vessel in favor of said libellant, and that said vessel be decreed to be sold to satisfy the judgment of this Court, and for such other and further relief as the Court deems just.

United States Attorney

Assistant United States Attorney
Proctors for Libellant

STATE OF TEXAS
COUNTY OF _____

Before me, the undersigned authority, on this day personally appeared J.K. SMITH, who, after being duly sworn, deposes and says: That he is Assistant United States Attorney for the Southern District of Texas, and one of the proctors for libellant; that he has read the foregoing libel, and that the facts alleged therein are true to the best of his knowledge, information and belief, and that the source of his information and grounds of his belief are the statements of witnesses reduced to writing and now in his possession; and that the reason why this verification is made by deponent and not by libellant is that libellant is a sovereign power and body politic.

Assistant United States Attorney

Subscribed and sworn to before me this _____ day of _____, A.D. 194____.