

Case No. 3,114.

CONNER v. LEVERING.

[2 Cranch, C. C. 163.]¹

Circuit Court, District of Columbia.

April Term, 1819.

NEGLIGENCE OF MATE—FORFEITURE OF WAGES.

If goods are lost from the ship, by the negligence of the mate, he cannot recover his wages; hut he is not liable for a mere mistake in returning to the master a bale more than was actually received.

At law. Assumpsit, by [Owen Conner] the mate of the ship, [against Septimus Levering, master], for his wages. Defence, that a bale of goods was lost.

Mr. Swann, for plaintiff.

Mr. Taylor, for defendant.

THE COURT instructed the jury, that if they should be satisfied, by the evidence, that the bale of goods was delivered to the plaintiff, or put on board of the vessel, and was lost by the negligence or fraud of the plaintiff, he could not recover in this suit; the value of the goods being more than the amount of his wages.

THE COURT refused to instruct the jury that the plaintiff was liable for a mere mistake in returning to the master a bale more than was actually received. See *Crammer v. The Fair American* [Case No. 3,347]; and *Lewis v. Davis*, 3 Johns. 18.

CRANCH, Chief Judge, gave no opinion upon the last point.

¹ [Reported by Hon. William Cranch, Chief Judge.]