

Case No. 6,118.

[37 Hunt, Mer. Mag. 196.]

HARRIS V. CAPEN.

District Court, D. Massachusetts.

Feb. 1, 1857.

SEAMEN—WAGES—SICKNESS.

[A seaman injured during a voyage, and left sick in a foreign port, is entitled to wages during such sickness and up to his arrival home, together with medical expenses, deducting wages actually earned on the return voyage.]

[This was a libel by James E. Harris against Frederic W. Capen, for wages as a seaman.] It appeared in evidence that libelant shipped as an able seaman on board the ship Thomas Perkins, and during the voyage received an injury which partially disabled him, and was left in Liverpool, sick, and the vessel proceeded on her voyage without him. This suit was to recover his arrears of wages, the necessary expenses of his sickness in Liverpool and his wages up to his return to Boston.

THE COURT (SPRAGUE, District Judge), ruled that by the maritime law, it was part of the maritime contract that the owners should be liable for the care of the seamen from sickness or disability arising in this perilous service, and that they were also bound to return them home. This was an implied point of the contract of shipment, as binding as though it were written, and the seaman's wages still continued on during the period of the sickness. Even if he was separated from the vessel by mutual consent to be left in a foreign port, the owners in such case were bound to pay the three months extra wages, two months of which should be paid to the seaman. In this case he decreed to libelant his wages due when the vessel left him at Liverpool, his wages up to the time of his arrival home, and the necessary expenses for medical aid in Liverpool, deducting the amount he may have earned on his return voyage in another vessel.