

Case No. 7,110.

THE ISLAND QUEEN.

{Brown, Adm. 279.}¹

District Court, E. D. Michigan.

Feb., 1871.

SHIPMENT OF GOLD COIN—LIMITED LIABILITY ACT.

Libellant's agent, who was intending to take passage on a steamboat from Detroit to a Canadian port, intrusted a quantity of gold coin to the master before the vessel started, without taking a bill of lading or delivering a note in writing. On returning on board, the coin was missing. *Held*, the vessel was not liable. Libel for breach of contract of affreightment for transportation of two hundred and seventy dollars (\$270) in gold coin, from Detroit, in the state of Michigan, to Texas, in the province of Ontario, Canada. The facts are that one Daniel B. Odette, in the employ of libellants, on the 25th day of September, 1868, had in his possession, at Detroit, a quantity of gold coin of the value of \$270, belonging to libellants, and went on board the steamer with the coin in his possession, for the purpose of taking passage to Texas, in Canada, where libellants resided. The steamer not being ready to leave for an hour or more, and Odette being desirous of going on shore in the meanwhile, and not wishing to carry the coin about with him, asked a person on board whom he took to be the master of the vessel, and who was then acting as such, for some safe place to leave the coin on board, and was shown a closet or cupboard in the master's room. Odette placed the coin in the cupboard, and left the vessel. On his return about an hour afterwards, the coin had disappeared, and nothing has been seen or heard of it since.

W. A. Moore, for libellant.

H. B. Brown, for claimant.

There was no delivery that could bind the vessel or its owners. Ang. Carr. § 129; *Blanchard v. Isaacs*, 3 Barb. 388; *Ford v. Mitchell*, 21 Ind. 54; *Trowbridge v. Chapin*, 23 Conn. 595; *Grosvenor v. New York Cent & H. R. Co.*, 39 N. Y. 34. Section 2 of the limited liability act is a conclusive answer to libellant's claim. *Pender v. Robbins*, 6 Jones [N. C.] 207; *Williams v. African Steamship Co.*, 1 Hurl. & N. 300; *Gibbs v. Potter*, 10 Mees. & W. 70. The exception in section 7 does apply to the lakes and connecting rivers. *Moore v. American Transp. Co.*, 5 Mich. 368; *Id.*, 24 How. [65 U. S.] 1. Nor to steamboats carrying passengers. 1 Abb. (U. S.) 315.

LONGYEAR, District Judge. The liability limitation act of March 3, 1851 (9 Stat. 635), settles this case beyond all question against the libellants. Section 2 of that act provides as follows: "If any shipper or shippers of platina, gold, gold dust, silver, bullion, or other precious metals, coins, jewelry, bills of any bank or public body, diamonds or other precious stones, shall lade the same on board of any ship or vessel without, at the time of

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such lading, giving to the master, agent, owner or owners of the ship or vessel receiving the same, a note in writing of the true character and value thereof, and have the same entered on the bill of lading therefor, the master and owner or owners of the said vessel shall not be liable, as carriers thereof, in any form or manner. Nor shall any such master or owners be liable for any such valuable goods beyond the value and according to the character thereof, so notified and entered." There is no pretense that this law was in any manner complied with. This point being decisive of the case, it is unnecessary to consider any of the other points raised and discussed on the hearing. Libel dismissed.

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