

Case No. 7,339.  
[7 Ben. 356.]<sup>1</sup>

THE JOHN E. HOLBROOK.

District Court, S. D. New York.

June, 1874.

SEAMAN'S WAGES—EXTRA PAY—ATTACHMENT.

1. The wages of a seaman are not subject to attachment.
2. A mate filed a libel against a vessel to recover wages due him. One of the owners defended the action on the ground that an attachment of the amount due had been served on him: *Held*, that the mate was entitled to his wages, and to ten days' extra pay, under the 35th section of the shipping act (17 Stat. 269,—now section 4529 of the Revised Statutes.)

This was a libel filed against a vessel by a mate, to recover for wages due him, and also ten days' double pay for the delay in payment, under the 35th section of the shipping act of June 7th, 1872. The owners defended the action. The answer was put in by one of the owners, who was master of the bark, and set up as a defence, that, previous to the filing of the libel, an attachment had been served upon him, in a suit brought against the mate in this court, in a cause of assault and battery. Ten days had not expired, when the libel was filed, from the time when the wages were due.

R. D. Benedict, for libellant.

W. R. Beebe, for claimant.

BLATCHFORD, District Judge. I think that, under section 35 of the shipping act, the libellant is entitled to double pay for ten days. Under section 61 of the same act, wages due to a seaman cannot be attached, and a payment of wages to a seaman, notwithstanding an attachment, is valid. Let a decree be entered for the libellant for \$225 and costs.

<sup>1</sup> [Reported by Robert D. Benedict, Esq., and B. Lincoln Benedict, Esq., and here reprinted by permission.]