

Case No. 8,593.

LUCKETT V. WEST ET AL.

[4 Cranch, C. C. 101.]<sup>1</sup>

Circuit Court, District of Columbia.

Nov. Term, 1830.

SHIPPING—SUPERCARGO—OSTENSIBLE OWNERS—RIGHT TO RETAIN  
BALANCE—SECRET OWNER.

1. A supercargo who receives his instructions from the ostensible owners of the whole cargo, has a right to retain, out of the whole proceeds of the cargo, the amount of a general balance due to him from such ostensible owners, although there may be another part-owner, whose interest was not disclosed to him until he had settled his account with such ostensible owners.
2. In such case, the secret part-owner cannot compel the supercargo to account with him.

Bill by a secret part-owner against a supercargo, to account for one eighth of the cargo of the brig Sea Horse.

CRANCH, Chief Judge (THRUSTON, Circuit Judge, absent). The plaintiff's intestate, Fielder Lockett, was owner of one eighth of the brig Sea Horse, of which vessel, J. & J. Harper owned the residue; and the said F. Lockett was, by agreement with the Harpers, owner also of one eighth of the cargo consigned by them to the defendant, John West, as supercargo, on a voyage to Rio Grande and a market. West was entirely ignorant of Lockett's interest in the vessel or cargo; all the documents, excepting the register of the brig, being in the name of the Harpers, or of "the owners," without naming them. West was the agent and factor of the Harpers only, and derived his authority from them alone. If he had a right to retain in his hands the proceeds of the cargo, on account of their debt to him, he had fully accounted with his principal before notice of the plaintiff's claim, except the sum of \$410.01, which he has paid to the plaintiff, with the assent of the other parties. Having been of opinion, in the preceding case of *Vowell v. West* [Case No. 17,024], that West had a right to retain so much of the proceeds of the cargo as would cover the debt of the Harpers to him, it follows, that, as he has accounted to them for the residue, he has now nothing more in his hands, and the bill, as to him, must be dismissed. Bill dismissed as to the defendant West.

<sup>1</sup> [Reported by Hon. William Cranch, Chief Judge.]