FERRIS *v.* THE BARK E. D. JEWETT.

District Court, S. D. New York. April 8, 1880.

SHIPPING BROKER—SERVICES IN PROCURING CREW—FAILURE TO SECURE PAYMENT BEFORE VESSEL LEFT PORT—LIEN.

W.R. Beebe, for libellant.

L.S. Gove, for claimants.

CHOATE, D. J. This is a libel against a British vessel to recover $30, balance of alleged advances made to the crew, who were procured for the vessel by the libellant, as a shipping broker, together with $12 alleged to be due to him for his services in procuring the men. It is alleged in the libel that the services were rendered and the advances made on the credit of the vessel. It appears, however, that the owners do business in this port, and it is not shown that they do not reside here.

The vessel was bound on a foreign voyage, without anything to show that she was expected to return. Yet the libellant, knowing when she was to sail, took no measures to secure payment from the vessel before she left the port. Although the libellant was employed by the master, yet he was at the office of the owners before the vessel sailed.

The libellant testified that before the vessel sailed he made out his bill, which was for $162, and gave it to the master; and that the master promised to approve it and leave it at the office of the owners. In doing this the libellant appears to have acquiesced in the vessel going to sea, leaving him to look to the owners for payment.

After the ship left the port a difference arose between the libellant and the owners as to the terms of the agreement between the libellant and the master, the owners admitting their liability for $120 only. After

some discussion the libellant took the $120, and gave a receipt for it as received for advances to the crew, and after receiving it he claims that he told the owners that he should sue the vessel on her return for the balance.

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The libellant avers that credit was given to the vessel. The libellant, thought examined as a witness, did not testify upon whose or what credit he relied. Under the circumstances, I think that the evidence shows that he did not rely upon the credit of the vessel, and that he has on lien on her. It is unnecessary, therefore, to consider the other questions that have been raised.

Libel dismissed, with costs.