

WALSH *v.* THE STEAM-SHIP LOUISIANA.

*District Court, S. D. New York.* November 3, 1880.

1. SEAMAN—WAGES—DISCHARGE.—Where the officers of a vessel are entitled to discharge a seaman at pleasure, they are bound to be ready to pay his wages at the time of his discharge.

*The Schooner David Faust*, 1 Ben. 187.

2. SAME—SAME—DEMAND.—In such case a demand of the officer who employed and discharged the seaman is sufficient.

In Admiralty.

*J. A. Hyland*, for libellants.

*J. E. Parsons*, for claimants.

CHOATE, D. J. This is a suit for wages. The libellant was hired to serve on board the steam-ship Louisiana as fireman, at the rate of \$40 a month. He served from August 4, 1880, to August 24th, inclusive. On August 24th he was discharged, being told by the assistant engineer, by whom also he had been employed, that his services were no longer required. The next day, which was Tuesday, he went to the vessel and demanded his wages of the officer who discharged him, and was told by that officer that he could not pay him; that Thursday was pay-day; that, if he wished to be paid sooner, he must go to the captain and get an order. This the libellant refused to do, and threatened to sue the vessel. Thereupon this suit was brought without further demand.

There is no dispute about the amount of the libellant's wages. It does not appear in what service the steam ship 752 was running, but it is assumed by both counsel that the manner of the libellant's discharge, at the pleasure of his employer, was legal, and there seems to have been no signing of articles. I shall, therefore, assume that the vessel had not been employed upon a foreign voyage, and that the case is not one covered by the acts of Congress relating to the

time and manner of paying the seamen. The only point made for the claimants is that the libellant should not have costs, because he made no proper demand for his wages before bringing his suit. I think, however, a case is not made out for refusing costs. If the agreement was such that the officers of the vessel were entitled to discharge the man at pleasure, they were bound to be ready to pay him at the time of his discharge. His wages were due at once and should have been paid without any delay. *The Schooner David Faust*, 1 Ben. 187; Betts' Adm. Pr. 61. If any demand was necessary, it was enough to make a demand of the officer who discharged him and who had employed him. No case is cited in which costs, in a suit for wages, have been refused simply upon the ground that the suit was brought after the discharge of the seaman and without a demand. The cases cited by the claimant's counsel as authorities for refusing costs are cases in which the seamen, being entitled to a trifling sum for wages, brought suit, tacking on to their claim for wages, which they had not demanded, some exorbitant and unfounded claim, on which they failed to recover. *The Steam-boat Swallow*, 1 Olc. 11; *The Ship Moslem*, Id. 381. I see, therefore, no sufficient reason for refusing costs.

Decree for libellant for \$25.27, with interest from August 24, 1880, and costs.

This volume of American Law was transcribed for use  
on the Internet

through a contribution from [Ted G. Wang](#). 