

SMITH *v.* STEAMER JOSHUA LEVINES.

District Court, S. D. New York. December 28, 1880.

1. WAGES—INTOXICATION—EVIDENCE.

C. H. Williams, for libellant.

C. E. Crowell, for claimant.

CHOATE, D. J. This is a suit for wages during the years 1877, 1878, and 1879. The libellant alleges a special agreement to pay him \$100 month during the time the vessel was running. He served as engineer and fireman. The promise to pay the libellant \$100 a month is proved, but the claimant has attempted to show that he was so intoxicated when he made the promise that he did not know what he was doing. I think the weight of the testimony is against the claimant on this point, and the libellant is entitled to recover his wages at that rate. His wages amount to \$2,030 between September 1, 1877, and February 11, 1879. He admits that the claimant is entitled to credits, which reduce the amount to \$810.29, for which sum, with interest from February 11, 1879, with costs, the libellant is entitled to a decree.

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