

demand upon the claimant, and before the filing of the libel, to-wit, on the seventeenth day of October, 1881, the funds of the libellant in the hands of the claimant were attached by the service upon him of a trustee writ in the suit of one Washington F. Pierce against the libellant in an action of contract, returnable before a trial justice of the county of Barnstable; that service of the writ was also made upon the libellant; that the suit had been entered in court, and was pending, and both the libellant and the claimant had appeared and filed answers; and that the libellant, before filing his libel, knew that the claimant had been served with the trustee writ. A copy of the trustee writ is annexed to the answer. The claimant relied upon the pendency of the trustee suit as a defence to the libel.

It is not necessary for the decision of this case to consider whether a seaman's lien on the vessel for wages earned on a fishing voyage, or his right to sue for them in the admiralty, is lost or suspended by an attachment of his wages by trustee process in a court of common law; for, assuming that wages so earned are not exempt from attachment, it is still very clear that the libellant's wages cannot be held by the trustee process set up in the answer. It is the settled law of Massachusetts that the wages of a seaman cannot be attached by trustee process before the voyage on which they are earned is terminated. Until then they remain uncertain and contingent, and it is only a debt that is due absolutely and without depending on any contingency, that by the law of Massachusetts is attachable in this form. Mass. Pub. St. c. 183, § 34; *Wentworth v. Whittemore*, 1 Mass. 471; *Taber v. Nye*, 12 Pick. 105; 2 Dane, Abr. 463; Cushing, Trustee Process, 38.

As the trustee writ was served before the voyage was finished, the wages due the libellant when the libel was filed were not covered by the attachment in the trustee suit.

Decree for the libellant for \$84 and costs.

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