The Hattie Low.

(*District Court, S. D. New York.* December 21, 1880.)

1. Seaman's Wages—Minor Son of Master.
   A father is entitled to the earnings of a minor child who lives with him, and is under his governance, protection, and support.
2. Same—Lien does not Attach.
   Where a father agreed to run a vessel on shares, and to pay all the expenses of running her, and his minor son, being a member of his household and living on board as a member of the father's family, acted as mate, *held*, no lien against the vessel could, under such circumstances, be acquired by either the father or son, and the libel, therefore, was dismissed.

In Admiralty.

Beebe, Wilcox & Hobbs, for libelant.

Samuel B. Caldwell, for claimant.

Brown, D. J. The libelant is shown by the evidence to have been a minor about 18 years of age, and during all the time he rendered the services as mate, for which this libel was filed, to have been a member of his father's household, who was master of the vessel and lived with all his family on board, and as such member was under his father's governance, protection, and support. The libelant was never employed by the owners, but by the father only. Whatever his father paid him in money, then or previously, under such circumstances, were voluntary payments; the father was legally entitled to his earnings, (*Plummer* v. *Webb*, 4 Mason, 382; *Luscom* v. *Osgood*, 1 Spr. 82; *Cutting* v. *Seabury*, Id. 522; *The David Faust*, 1 Ben. 183; 2 Pars. Shipp. & Adm. 371,) and no suit at law could have been maintained by the libelant against his father therefor. The father being, therefore, entitled to these services, and under his agreement with the owners being bound to pay all expenses in running the vessel on shares, no lien could arise against the vessel for the son's services so rendered. Action like that of the father in this case, in endeavoring to assist in fastening a lien upon the vessel under such circumstances, has been declared to be "committing a virtual fraud upon the owners." *The Columbus*, 5 Sawy. 487, 492; and see *The William Cook*, 12 Fed. Rep. 919.

For these reasons, in addition to those stated by the commissioner, the exceptions are overruled, and judgment ordered for the claimant.

NICKERSON, Trustee, v. MEACHAM and others.

(Circuit Court, D. Nebraska. January, 1883.)

1. EQUITY—BONA FIDE PURCHASER—CONSTRUCTIVE NOTICE—CONVEYANCE OF MORTGAGED PREMISES.

   The holder of a mortgage surrendered the same upon the receipt of a quitclaim deed of the land from the mortgagor. The mortgagor, without knowledge of the mortgagee, had previously deeded the same land to his daughter, who, prior to the surrender of the mortgage by the mortgagee, and the conveyance of the mortgaged land by her father to the mortgagee, deeded the same to a third party, in consideration of certain promissory notes of doubtful value. *Held*, that if the conveyance of the daughter to the third party was without consideration, it should be set aside, and that the mortgage, which had been canceled in ignorance of the fact that the mortgagor had parted with the title, should be enforced against the land. It was the duty of the holder of the mortgage to examine the record for conveyances by the mortgagor before taking a quitclaim deed, and as against a *bona fide* purchaser for value he would be without remedy; but if the party claiming to be a *bona fide* purchaser for value is proven not to be such, he has no equities, and there is nothing to prevent a court of equity from disposing of this case upon the equities as they exist between the mortgagor and mortgagee.

2. SAME—BONA FIDE PURCHASER—PAYMENT BEFORE NOTICE OF EQUITIES—PROOF.

   A party relying upon the defense that he is a *bona fide* purchaser, entitled to hold notwithstanding a prior equity, must establish his defense by proof. It is an affirmative defense. The statement of a consideration in the deed is not sufficient, but actual payment before notice must be shown.

3. SAME—PRESUMPTION AS TO VALUE OF PROMISSORY NOTES.

   As a general rule, the law will presume that a promissory note, even if past due, is worth its face in money; but this is only a presumption which arises in the absence of direct proof as to value, and may be overcome by comparatively slight proof in contradiction, especially when the paper is old, dishonored, or outlawed.

In Equity. On exceptions to master's report.

The principal matter in controversy in this case is as to the validity of a conveyance of certain lands from respondent Mary Meacham to respondent H. H. Blodgett, of date February 7, 1880. The title to the land was, prior to February 8, 1877, in respondents Stephen A. Meacham and Nancy, his wife, who on that day executed a mortgage thereon to A. Otis Evans, to secure the payment of $2,700, with interest and attorney's fees. The purpose of this suit is to foreclose said mortgage; and in order to make the foreclosure effectual, complainant prays the cancellation of the conveyance above referred to, and that the satisfaction of said mortgage hereinafter mentioned may be set aside.