

THE ARCTURUS.

District Court, N. D. Ohio, E. D. April Term, 1883.

LIBEL FOR WAGES OF MASTER.

The master of a vessel has no lien on the cargo of the vessel for his wages beyond the amount of the freight thereof, and where, for any reason, he does not unload the cargo, he is only entitled to a lien upon such of the freight as the vessel has actually earned, that being the freight less what it costs to unload.

In Admiralty.

Mix, Noble & White, for libelant.

Goulder & Weh, for the Arcturus.

WELKER, J. The libelant was the master of the Arcturus, and had wages due him as such master from the owners of the vessel about the month of November, 1882. At that time he had on board the vessel a quantity of telegraph poles, owned by A. A. Colby, which had been carried on board the Arcturus, and were to be delivered at the port of Sandusky, upon which the said Colby was to pay freight in the usual way. Before the telegraph poles were unloaded at Sandusky the vessel was seized by the United States marshal under a libel filed by W. H. Wolf *et al.* against the Arcturus, so that the master could not, and did not, unload the poles at Sandusky, and Colby, the owner, was compelled to pay \$70 to procure the poles to be unloaded, and before he was allowed to do so he paid the whole freight money into the registry of the court which would have been earned by the Arcturus if the contract of affreightment had been fulfilled 96 by the delivery of the poles. The libelant, Jones, the master, claims the whole freight should be applied on his unpaid wages, and also a lien on the poles, the cargo, for the amount due him for services as master.

The court finds that the libelant had no lien on the cargo for the wages beyond the amount of the freight thereof; that in this proceeding he is only entitled to the freight actually earned by the vessel, that being the freight less what it costs to unload it at Sandusky; that the libelant is entitled to a decree for that part of the freight so actually earned, to be applied on his wages as such master; that Colby is entitled to repayment out of the registry of the amount he paid for the unloading of the cargo, being the sum of \$70.

Decree accordingly.

See *The De Smet*, 10 FED. REP. 483, and note, 496.

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