

## THE ONTONAGON.

*District Court, N. D. New York.*

March, 1884.

## COSTS LIBEL IN REM SETTLEMENT.

The respondent in a suit for seamen's wages cannot avoid the payment of costs by settling with the libelant without the knowledge of his proctors.

*Cook Fitzgerald*, for libelant.

*Williams Potter*, for respondent.

COXE, J. This is a libel for seamen's wages, The simple question is: can the respondent by a settlement with the libelant avoid the payment of costs? I am clearly of the opinion that he cannot. The libelant was compelled by the respondent's refusal to pay his wages to commence this suit. Costs and disbursements were incurred, due not only to the proctors, but to the marshal and clerk. By paying the libelant the respondent admits that the claim against him was a just one. Why should he not discharge all the debts which his own conduct made it necessary to incur? To permit a party, by means of what Judge BETTS sententiously terms "an out-door settlement," to avoid the payment of such obligations would be to encourage practices which the court should be slow to sanction. Courts of admiralty in actions of this character have seldom failed in similar circumstances to grant protection to the injured party. *The Sarah Jane*, 1 Blatchf. & H. 401, 422; *The Victory*, Id. 443; *The Planet*, 1 Spr. 11; *Angell v. Bennett*, Id. 85; *Collins v. Nickerson*, Id. 126; *Gaines v. Travis*, 1 Abb, Adm. 301.

The libelant's proctors are entitled to recover their costs to be taxed by the clerk.

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