

PEARSON *v.* THE ALSALFA.

*District Court, D. South, Carolina.*

December 14, 1890.

WARRANT OF ARREST—ISSUANCE ON SUNDAY.

A warrant of arrest may issue in admiralty on Sunday, where a vessel has changed her day for sailing, and proposes to sail on that day, and a libellant for seaman's wages did not learn that his wages would not be paid in time to begin his case before that day.

In Admiralty.

*C. B. Northrop*, for libellant.

SIMONTON, J. The libel is for seaman's wages. Libellant moves for a warrant of arrest, as the vessel is about to proceed to sea. The only question is, can such a warrant be issued on Sunday? The law of South Carolina forbids the service of civil process on Sunday. This regulation is purely municipal, and can control only the process in the state courts. If it can be construed to apply to process on the law side of the courts of the United States, under section 914, Rev. St., it cannot be made to apply to process out of the court of admiralty, which is expressly excepted from this section. The question now made is entirely new. There are no authorities in point, and very few bear on the question. Mr. Desty, in his little book on Shipping & Admiralty, § 181, says that Sunday is not recognized by the maritime law. Although the authorities he quotes do not bear him out in this broad statement, (*The Richard Matt*, 1 Biss. 440; *Johnson v. The Cyane*, 1 Sawy. 150,) it seems to have support. Sailors can be made to work on Sunday notwithstanding that a law of the port may forbid it. *Ulary v. The Washington*, Crabbe, 208.

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A vessel can leave a port on Sunday, although the law of the port may forbid travel on that day. GRIER, J., in *Philadelphia, W. & B. R. Co. v. Philadelphia, etc., Tow-Boat Co.*, 23 How. 209.

This court is always open for the redress of wrongs. Seamen specially are under its protection. In the present case the vessel has unexpectedly changed her day for sailing, and has anticipated it by proposing to sail to-day. The libelant did not learn that his wages would not be paid in time to begin his case before to-day. In this view of the case, and in the absence of authority to the contrary, let the warrant of arrest issue.