

FEE *ET AL.* V. ORIENT GUANO MANUF'G CO.

Circuit Court, E. D. New York.

August 19, 1890.

1. SEAMEN—WRONGFUL DISCHARGE—DAMAGE—FISHING VESSRL.

A master and crew wrongfully discharged by the owner of a fishing vessel from employment under a contract for the entire season, wages to be in the ratio of the quantity of fish caught, may recover damages for such discharge, based on the amount they would have received as wages on the catch of the whole season, less the amount actually paid them, and any wages earned by them during the season, after their discharge.

2. SAME—RELEASE AND DISCHARGE.

A receipt by the master in such case for his wages in full to the time of his discharge is no bar to a libel for wages for the residue of the season, the evidence showing that it was not intended as a settlement for the wrongful discharge.

Affirming 36 Fed. Rep. 509.

In Admiralty. On appeal from district court. 36 Fed. Rep. 509.

Goodrich, Deady & Goodrich, for libelants.

Evarts, Choate & Beaman, for claimants.

BLATCHFORD, J. I concur with the district judge in the views expressed by him in his opinion, filed September 24, 1888. I also agree

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that the exceptions of the libelants to the commissioner's report must be overruled; that the libelants Field, Clark, Kidney, Corrigan; Collins, McGuirk, Early, and Kruger, respectively, must recover the amounts reported by the commissioner in their favor, with interest from the date of the report, May 18, 1889, but that the libelants John Fee, Page, Mitchell, and Pidgeon, respectively, must recover one-half of the amounts reported by the commissioner in their favor, with interest from the date of the report, May 18, 1889; that the libelants recover their costs in the district court, taxed at \$208.35; and that neither party recover any costs of this court.