

on the voyage, at the rate of 10 shillings per day; and the court will allow it.

In the argument the court listened to an appeal in behalf of this ship to consider the interests of the port of Tacoma,—the commercial interests of this port. The court regards as its imperative duty, above any mercenary interest that any parties to this suit or people outside of this litigation may have in the matter, the doing of justice, the upholding of the maritime law of this country and of the world; but, in addition to that, the commerce of the country cannot suffer by protecting the rights of mariners. Reliable and efficient seamen are just as necessary to commerce as ships are; and it is only necessary to sanction or permit the practice of kidnapping seamen to be carried on, to reduce the shipping interests in a very short time to a dependency upon slave labor. I can imagine nothing that would be a more severe blow to the commercial world than to oppress and enslave the class of men who are willing to endure the hardships and encounter the dangers of a seafaring life; and I believe that the interests of the port of Tacoma, as well as justice itself, call upon this court, whenever a ship's master stands convicted before it of the offense of kidnapping seamen, to deal with enough severity to at least check this great evil. In giving what I have to these men, I have given them simple justice, and think I have dealt mildly with the captain of this ship.

---

THE JAMES T. EASTON.

THE QUAKER CITY.

THE G. C. ADAMS.

EDICOTT v. THE JAMES T. EASTON, THE QUAKER CITY, AND THE G. C. ADAMS.

(District Court, E. D. New York. February 25, 1892.)

**1. MARITIME LIENS—SUPPLIES—MORTGAGES—ANTECEDENT INDEBTEDNESS.**

A mortgagee of a vessel, who has taken the mortgage for an antecedent indebtedness only, and without inquiry as to existing liens, is not in the situation of a *bona fide* purchaser, and has no equity superior to a material-man who has a lien for necessary supplies furnished on the credit of the vessel.

**2. SAME—DISCHARGE BY THIRD PERSON'S NOTE.**

The note of a third person, when taken for an antecedent debt of a vessel, is no discharge of the maritime lien of the person receiving it.

In Admiralty. Suit to recover for supplies furnished; mortgagees defending as prior lienors. Decree for libellant.

*Shipman, Larocque & Choate*, for libellant.  
*McCarthy & Berier*, for claimants.

BROWN, District Judge. The above-named propellers were owned by Samuel Schuyler of Albany, treasurer of the corporation known as "The Schuyler Steam Tow-Boat Company." They were used as helpers in the business of the line, and had been accustomed for some years to obtain supplies, mostly in the engineers' department, from the libellant at Jersey City, as the same might be wanted at this end of their trips. From May, 1890, to the close of the year supplies were furnished to the above-named propellers, as well as to other propellers belonging to the Schuyler Line. The supplies were all ordered by the captains of the different boats at the libellant's place of business in Jersey City, and were necessary for the vessels. The libellant had no acquaintance with the owner. Bills were rendered for the supplies furnished to each boat separately, and the same were charged and rendered as against the boat. I find that the credit was given to the various boats, and that the libellant has a maritime lien therefor, as well also as a lien of indefinite continuance under the statutes of the state of New Jersey, if the state statutes can be held applicable to foreign vessels. See *The Lyndhurst*, 48 Fed. Rep. 839, (Jan. 11, 1892.)

The claimant, the Lehigh Valley Coal Co., a mortgagee of the three vessels, took mortgages thereon respectively for the sum of \$15,000, \$15,000, and \$8,500, recorded in the office of the county clerk at Albany, on the 31st of December, 1890. These mortgages, as appears from the testimony of Mr. Barrett, were not given upon any new consideration, but for an antecedent debt for coal furnished to these and other boats, probably during a considerable period, like that covered by the libellant's supplies. He testifies that when they took the mortgages they had no notice of the libellant's liens. But it does not appear that any inquiry was made; and the evidence indicates that the mortgagee parted with nothing on the strength of its mortgages. It was, therefore, not in the position of a *bona fide* purchaser, as in the *Case of The Lyndhurst, supra*, paying the value of the property, and making all reasonable efforts to find any outstanding incumbrances and finding none. The mortgages in the present case conveyed only the interest of the mortgagor, and subject to such liens as existed against the vessel. The mortgagee has, therefore, no equity superior to that of the libellant. The supplies furnished by the mortgagee were, so far as they were furnished to these vessels, of the same legal grade as the supplies furnished by the libellant. The question of laches does not, therefore, properly arise, since there is no later superior equitable right.

The taking of the Schuyler Steam Tow-Boat Company's note was not a discharge of the lien of the libellant. Under the relation of Mr. Schuyler to the company as its treasurer there is even less ground for drawing any inference that the company's note was taken in discharge of the lien, than exists in ordinary cases where the note of a third person is received. And there the rule is well settled that the note of a third person, when given for an antecedent debt, is no discharge. *Noel v. Murray*, 13 N. Y.

167; *Hall v. Stevens*, 116 N. Y. 206, 22 N. E. Rep. 374. In courts of admiralty the law has been the same, since the *Case of Barque Chusan*, 2 Story, 455, 466-470, which in many respects is like the present case. See, also, *The Chelmsford*, 34 Fed. Rep. 399; *The Gen. Meade*, 20 Fed. Rep. 923. Decree for the libellant, with a reference to ascertain the amount due, if not agreed upon.

### THE SCANDINAVIA.

COMPAGNIE DU BOLEO v. THE SCANDINAVIA.

MEEK v. CARGO OF THE SCANDINAVIA *et al.*

(District Court, N. D. California. February 23, 1892.)

1. SHIPPING—DISCHARGE OF CARGO—REFUSAL BY CONSIGNEE TO RECEIVE—DUTY OF SHIP.

Where a consignee refuses to receive cargo in accordance with the provisions of the charter-party, the ship-master is authorized to land and store it at the nearest proper and convenient port, having reference to his own convenience and the apparent best interests of its owner, and always acting prudently and in good faith.

2. SAME—LIGHTERS DESTROYED BY STORM—STATEMENT OF CASE.

The ship *S.*, whose charter provided that her cargo should be delivered at the ship's side, lay in the roadstead of Santa Rosalia, and had discharged only about one-half of her cargo when her lay days expired, and the following day the lighters of the consignee were destroyed by a storm. The only method of discharging was into lighters. The place was an open roadstead, dangerous in the event of bad weather. A week later, despite the necessary protests, the consignee had done nothing, and still refused to do anything, towards discharging the balance of the cargo. On that day, after asking the consignee to designate a port where the balance of the cargo could be discharged, which the consignee refused to do, the vessel sailed for San Francisco, and on arrival discharged and libeled the cargo for freight and demurrage. *Held*, that under the circumstances the ship was justified in taking the cargo to some place where it could be stored for the benefit of the consignee, subject to the payment of freight and charges.

3. DEMURRAGE—MUTUAL NEGLIGENCE.

A vessel took a cargo to Santa Rosalia; her charter providing that it was to be discharged along-side "any craft, steamer, or floating depot, or any wharf or pier, where she can always safely lie afloat." There is only an open roadstead at Santa Rosalia. The cargo was not discharged within the lay days, partly because the buckets used by the ship were insufficient and her supply of men short, and partly because the lighters furnished by the consignee, and which were the only means of discharging, were inadequate for the purpose. *Held*, that neither ship nor consignee should be allowed demurrage for such period.

In Admiralty. Libel for damages for non-delivery of cargo. Cross-libel for non-reception of cargo and non-payment of freight and demurrage.

*Page & Eells*, for libellant.

*E. W. McGraw*, for claimant.

Ross, District Judge. These are cross-libels; the *Compagnie du Boleo* claiming demurrage and damages for non-delivery of cargo; and the owner of the ship, damages for non-reception of cargo and non-payment