

said your libelant has suffered loss and damage to the amount of (\$1,000) one thousand dollars. That the libelant relied upon the credit of said vessel, as well as upon that of the owner and master thereof, and the libelant would not so as aforesaid have entered upon the said contract except upon the credit of said vessel. That there is due to the libelant, by reason of the premises, the sum of one thousand dollars and interest thereon from the beginning of this action, over and above all payments, set-offs, and discounts, for which sum the libelant claims he has a lien upon said propeller Oscoda, her boats, tackle, apparel, and furniture."

Perkins & Welch, for libelant.

Harvey L. Brown, for respondent.

COXE, District Judge. The libelant seeks to enforce a lien upon the propeller Oscoda for damages occasioned by the breach of a partly executed contract of towage. The exceptions dispute the jurisdiction of the court. I am of the opinion that the propeller, having entered upon the agreement to tow the libelant's barge during the entire season of 1894, is answerable in rem for the breach of the agreement by the abandonment of the barge in September. The *G. L. Rosenthal*, 57 Fed. 254; *The Oregon*, 5 C. C. A. 229, 55 Fed. 666, 677. The libel is also excepted to because the allegations of damage are indefinite and uncertain. In view of the somewhat unusual character of the agreement it is thought that the libel should point out the manner in which the alleged damages arose with sufficient distinctness to enable the respondent to meet the claim at the trial. The fourth exception is sustained. The others are overruled. The libelant may amend within 20 days.

THE POTOMAC.

(District Court, N. D. New York. March 8, 1895.)

SEAMEN'S WAGES—EXTRA COMPENSATION.

A claim for extra wages for work performed by seamen, in port, in assisting stevedores to unload and reload the vessel, at the request of the master and upon his promise to pay at the same rate the stevedores were receiving, will be enforced against the vessel, especially when the owner has recognized the justice of the demand by paying part of the mariners rendering such work. These circumstances take the case out of the established rule that seamen must not expect extra compensation for services rendered in their capacity as such.

This was a libel by seamen against the Potomac to recover extra wages.

Urban C. Bell, for libelants.

Vernon Cole, for respondent.

COXE, District Judge. If I thought that a decree for the libelants involved a departure from the old and salutary rule that seamen must not expect extra compensation for services rendered in their capacity as seamen, no matter how arduous or meritorious they may be, I should dismiss the libel. It would lead to gross insubordina-

tion and increase the difficulties and dangers of navigation immeasurably if the court should sanction the idea that a seaman may refuse to obey the master's orders on the ground that the work he is directed to perform is "extra" and entitles him to additional compensation. The facts in this case, however, take it out of the general rule and preclude the possibility of its ever being used as a precedent for a departure from or relaxation of the rule. The Potomac was in port at the time in question. The work was partly on the vessel and partly on shore and consisted in unloading and re-loading a part of her cargo. There were from 40 to 50 stevedores engaged in this business and the master promised the libelants and other members of the crew that if they went to work they should receive the same pay as the stevedores. The master admits the agreement and recognizes its fairness. The claimant also has conceded the justice of the claim by paying all of the mariners, pursuant to the agreement, except these libelants. The record discloses no reason for this apparently unfair discrimination. The libelants are entitled to a decree for \$21, interest and costs.

THE CYGNET.

(District Court, N. D. New York. March 7, 1895.)

SHIPPING—TITLE TO VESSEL—NINETY-NINE YEARS' LEASE.

The lessor in a 99 years' lease of a pleasure yacht, which document the lessees have accepted in lieu of a bill of sale after paying full value, has no interest or title which the court can recognize.

This was a libel against the pleasure yacht *Cygnat* for mariner's wages.

Harvey L. Brown, for libelant.
Clinton & Clark, for claimant.

COXE, District Judge. This cause, for a comparatively unimportant one, abounds in unusual complications. The libelant has failed to prove the cause of action and the claimant has not proved a defense. This may seem paradoxical, but it is, nevertheless, true that the proof fails to sustain the cause of action alleged in the libel and does establish the fact that the claimant has no title to the libeled vessel. The *Cygnat* is a Canadian pleasure yacht. In the spring of 1894 she was lying at the port of Buffalo and was owned by Buffalo parties. The libelant alleges that he was employed by one Ewing to act as sailing master of the yacht at \$50 per month. The proof shows that Ewing was neither owner of the yacht nor agent for the owners to make such a bargain. The testimony, documentary and oral, proves that at all the times in controversy the owners were Louis E. Levi and Alfred Schoelkopf. There is nothing to contradict this positive proof but rumor, hearsay and unfounded declarations. At the time of the alleged em-