

"Conclusions of Law.

"First. That the secretary of the treasury was authorized to determine the compensation of the petitioner as shipping commissioner at the port of New York, and, having exercised such authority, the compensation of the petitioner remained as so fixed (to wit, five thousand dollars per annum).

"Second. That the secretary of the treasury is authorized to regulate the mode of conducting the business in the shipping offices.

"Third. That all expenditures made by shipping commissioners in the discharge of the duties imposed upon them by the statutes of the United States or the regulations of the treasury department are to be audited and adjusted in the treasury department.

"Fourth. The petitioner is entitled to have and receive from the United States of America the sum of four thousand and thirty-three dollars and seventy-one cents.

"Judgment is therefore rendered for the petitioner for the sum of four thousand and thirty-three dollars and seventy-one cents."

Henry C. Platt, U. S. Atty.

George E. P. Howard, for appellee.

No opinion. Affirmed in open court.

 THE MANHANSET.

EVANS v. NELSON.

(Circuit Court of Appeals, Second Circuit. December 5, 1893.)

No. 39.

MASTER AND SERVANT—PERSONAL INJURY TO SEAMAN—ABSENCE OF LIGHT AT WINCH—ACT IN EXTREMIS.

Appeal from the District Court of the United States for the Eastern District of New York.

This was a libel by Peter Nelson, a seaman, against the steamship Manhanset (Thomas L. Evans, claimant), to recover damages for personal injuries. The district court entered a decree for libelant for \$1,750 and costs. 53 Fed. 843. The claimant appealed.

Convers & Kirlin, for appellant.

Edwin G. Davis, for appellee.

Affirmed, with interest and costs, on the opinion of the district judge.

THE MAJESTIC.

OCEANIC STEAM NAVIGATION CO. v. POTTER et al.

(Circuit Court of Appeals, Second Circuit. May 7, 1894.)

No. 65.

CIRCUIT COURT OF APPEALS—CERTIFICATE TO SUPREME COURT—SHIPPING—
DAMAGE TO PASSENGERS' BAGGAGE.

Appeal from the District Court of the United States for the Southern District of New York.

This was a libel by Grace Howard Potter and others against the steamship Majestic (the Oceanic Steam Navigation Company, claimant), to recover damages for injury to their luggage while being carried as passengers from Liverpool to New York. The district court entered a decree for libelants. 56 Fed. 244. The claimant appealed to this court, which on March 12, 1894, rendered a decision modifying the decree of the district court so as to limit the recovery in favor of each libelant to the sum of \$43.67, with interest. See 9 C. C. A. 161, 60 Fed. 624, where the facts are fully stated. The libelants moved for a reargument, but the same was denied. They thereupon filed the present petition, asking the court to certify the cause to the supreme court of the United States for a decision, upon certain questions of law. The points upon which a decision was desired were stated as follows by the petitioners:

"The following points, which petitioners believe have never yet been determined by any of the courts of the United States, except this court, were discussed by petitioners in their brief, and argued by counsel, and were decided adversely to petitioners: First: (1) That appellant, as appeared from the uncontradicted facts in the case, had issued to petitioners alternative labels for their baggage, directing certain places in the ship, where the baggage, at petitioners' election, might be stowed, and requested petitioners to attach the label selected by them to their baggage upon the voyage in question. (2) That the issue of the aforesaid label under the conditions aforesaid, and the subsequent attaching of the same to the baggage, as appears from the uncontradicted facts in the case, constituted a part of the contract for passage between the parties, and that the ship became obligated to carry the baggage on such voyage, in the particular part of the ship designated by the label selected. (3) That the petitioners' baggage, as appears by the uncontradicted facts in the case, on the voyage in question, had been delivered in London to a railway company, as agent of appellant, and by it checked to New York, and marked before delivery to the railway company by petitioners with the label issued by appellant directing it to be stored in the 'hold,' and by the railroad company delivered in good order to the ship, and that the hold proper of the ship contained no portholes. (4) That appellant, as appeared from the uncontradicted facts in the case, failed to stow the said baggage in the hold proper, but stowed it in what is known as 'Orlop No. 3,' a different part of the ship, containing portholes, one of which became broken by an unanticipated peril of the sea, whereby the said package became damaged. (5) That the appellant, by storing the baggage elsewhere than directed by the label selected, deviated from the contract, and thereby became an insurer of the baggage against all loss and damage, even as against unavoidable accident and perils of the sea. * * * Second: (1) That appellant, as appeared from the uncontradicted facts in the case, was guilty of negligence in stowing and caring for said baggage on the voyage afore-