

is the full, if not beyond the full, limit of just compensation for the services. For such sum and costs let a decree be entered in favor of the libellant. If any question shall arise as to the share of the decree that the vessels should respectively bear, the matter may be presented to the court for settlement.

THE MARION.

(District Court, N. D. California. May 21, 1898.)

No. 11,300.

SEAMEN'S WAGES—LIBEL AGAINST CARGO—CATCH OF FISH.

Claimants advanced money and supplies to the owners, to enable the vessel to make a fishing voyage. On her return she delivered the catch of fish to them in payment of such advances. *Held* that, on these facts, the owners of the vessel were owners of the fish when caught, and when landed after her return, and that such cargo was therefore subject to a lien for seamen's wages in an amount equal to what would be a reasonable freight thereon if the cargo had been carried by the vessel for persons other than her owners.

This was a libel in rem for seamen's wages.

H. W. Hutton, for libellants.

A. P. Van Duzer, for claimants.

DE HAVEN, District Judge. This is a libel by seamen to enforce against a cargo of salmon a claim of lien for their wages. The cargo, consisting of 850 barrels of salmon, was brought by the barkentine Marion from Alaska to the port of San Francisco, upon the voyage described in the amended libel. The Marion has been sold, and, the proceeds arising from such sale not being sufficient to pay the wages of the seamen, it is sought by this proceeding to enforce the balance of their claim for wages against the cargo in question. It was admitted upon the trial that prior to the departure of the Marion on that voyage, which was a voyage undertaken for the purpose of catching fish, C. E. Whitney & Co., the claimants here, advanced to the owners of the vessel money and supplies of the value of \$4,400 for the purpose of enabling her to make such voyage. Upon the return of the vessel to San Francisco the claimants received the 850 barrels of salmon in payment of the advances so made by them to the owners of the vessel. Upon this state of facts, there must be a finding that the owners of the vessel were the owners of the salmon when caught and landed in San Francisco; and, under the law as declared by my predecessor in overruling the exceptions to the amended libel in this case (The Marion, 79 Fed. 104), the seamen are entitled to a lien upon such cargo in an amount equal to what would be a reasonable freight thereon if such cargo had been carried by the vessel for persons other than the owners of the vessel. It was agreed upon the trial that \$1 per barrel would be a reasonable charge for freight upon the voyage named. Let a decree be entered in favor of the libellants for the sum of \$850 and costs.

HARLESS v. UNITED STATES.

(Circuit Court of Appeals, Eighth Circuit. June 20, 1898.)

No. 1,050.

CIRCUIT COURTS OF APPEAL—CRIMINAL JURISDICTION—CRIMES IN INDIAN TERRITORY.

In the act of March 1, 1895, creating a court of appeals for the Indian Territory, and giving it full jurisdiction, civil and criminal, the provision of section 11 that "writs of error and appeals from the final decision of said appellate court shall be allowed, and may be taken to the circuit court of appeals for the Eighth judicial circuit, in the same manner and under the same regulations as appeals are taken from the circuit courts of the United States," conferred upon that court full appellate jurisdiction, including that in cases of infamous crimes, which was theretofore vested in the United States supreme court.

In Error to the United States Court of Appeals in the Indian Territory.

Thomas Marcum, Thomas Owen, J. H. Koogler, John Watkins William M. Mellette, and Edgar Smith, for plaintiff in error.

P. L. Soper, U. S. Atty. (L. F. Parker, Jr., Asst. U. S. Atty., on brief), for the United States.

Before SANBORN and THAYER, Circuit Judges, and SHIRAS, District Judge.

SHIRAS, District Judge. Plaintiff in error was indicted in the United States court, in the Indian Territory, for larceny and receiving stolen property, and, upon trial, was found guilty, and sentenced to imprisonment for two years and six months. By appeal he carried the case before the United States court of appeals for the territory, by which the sentence and judgment of the trial court were affirmed; and thereupon a writ of error from this court was sued out to the territorial appellate court, and, the transcript having been duly filed in this court, the United States now moves for a dismissal of the writ, on the ground that a writ of error will not lie from this court to the appellate court of the Indian Territory in cases of infamous crimes, or, in other words, that jurisdiction in this court does not exist in cases of infamous crimes committed in the Indian Territory.

In support of the motion to dismiss, it is argued that under the provisions of the act of March 3, 1891, creating the courts of appeal, jurisdiction in cases of infamous crimes was not conferred upon the courts of appeal, but by section 5 of the act was conferred upon the supreme court, and that it was not until the adoption of the act of January 20, 1897 (29 Stat. 492), amendatory of the act of 1891, that the circuit courts of appeal could entertain jurisdiction in cases of infamous crimes, and that this amendatory act has only the effect of transferring to the several circuit courts of appeal the then existing jurisdiction of the supreme court over cases of infamous crimes, and that, when this act took effect, the supreme court did not have jurisdiction over such cases in the Indian Territory, because the