

Case No. 11,571.

RANSOM ET AL. V. MAYO.

[3 Blatchf. 70;¹ 16 Law Rep. 397.]

Circuit Court, S. D. New York.

Oct 10, 1853.²ADMIRALTY—MARITIME CONTRACTS—CONTRACT
TO REPAIR—DAMAGE IN HAULING ON WAYS.

Where a contract was made upon the land, between the owner of a vessel and a ship-builder, for her repair by the latter in his shipyard on the land: *Held*, that an action in personam would not lie, in the admiralty, to recover for damage to the vessel caused by the negligence of the ship-builder in hauling the vessel up on ways, to be repaired. Neither the contract nor the service is maritime.

[Cited in *Cunningham v. Hall*, Case No. 3,481; *The Ottawa*, Id. 10,616; *Salvor Wrecking Co. v. Sectional Dock Co.*, Id. 12,273; *The Vidal Sala*, 12 Fed. 209.]

[Appeal from the district court of the United States for the Southern district of New York.]

This was a libel in personam [by Thomas Ransom and others against William Mayo]. The respondent was a ship-builder, and the owner of a ship-yard in Coxsackie, N. Y. The action was brought by the owner of a vessel, to recover for the damage caused to her in consequence of her having broken from her fastenings upon the ways, as she was being hauled up to be repaired in the ship-yard. The libel was founded upon an implied engagement and duty on the part of the shipbuilder to perform the service with skill and care. Negligence and want of proper skill in conducting the business, were alleged as the cause of the damage. The district court dismissed the libel, for want of jurisdiction, upon the ground that the duty of the respondent did not arise out of a maritime contract and that the work and labor to be performed were not a maritime service; that the contract was made upon the land, and related to service to be performed upon the land; and that, therefore, the case did not fall

within the admiralty jurisdiction. [Case No. 11,571a.]
The respondent appealed to this court.

THE COURT concurred in the view taken by the
district court, and affirmed its decree, with costs.

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² [Affirming Case No. 11,571a.]

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