

pense. The workmen were supplied with all necessary lights by the charterers. The ship was not under any duty to supply lights or to cover the hatches merely for the use of the charterers' men, nor was the libellant's fall in fact owing to any lack of light. The open hatch was fully known to him, it was the customary opening, and the only care necessary to avoid it was such ordinary care as all who work on ship-board are expected to exercise. *The Sir Garnet Wolseley*, 41 Fed. Rep. 896. If they do not take such care, it is at their own risk.

Libel dismissed.

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THE J. C. RICH.<sup>1</sup>

SCOTT v. THE J. C. RICH.

(District Court, S. D. Alabama. February 18, 1891.)

1. MARITIME LIEN—STATE STATUTE.

The liens declared by state statute are enforceable in admiralty only if attached to contracts maritime in their nature.

2. SAME—CONSTRUCTION OF VESSEL.

A contract for the building and equipment of a vessel is non-maritime in its nature, and a lien therefor created by state statute is not enforceable in admiralty.

In Admiralty. Libel *in rem*.

*Pillans, Torrey & Hanaw* and *J. I. Clemmons*, for claimants.

*W. D. McKinstry* and *L. H. Faith*, for libellant.

Toulmin, J. This suit is brought by libellant to recover a sum of money claimed to be due him for work and labor done as ship carpenter under a contract with the owner of said tug. The proof shows that the work was done on the vessel in completing her construction, and rendering her fit for the uses for which she was designed. It shows that the tug, when partly constructed, was launched and sunk for preservation; that she was then without shoe, rudder, engine, stern-plate, house, steering-gear, bunks, or boilers; that she remained in this condition some considerable time, was subsequently raised, and libellant contracted to do certain necessary carpenter's work to complete her. She was not enrolled and licensed and finished as a complete vessel, as originally designed, until after libellant's work on her. The proof further shows that from the laying of her keel she was destined to become a steam-tug, was suitable for nothing else, was never completed for any other use, and had not been used for the purposes of commerce and navigation until after the work done on her by the libellant. What the libellant did, therefore, must be held to have been done in the original construction of the vessel. In order to the existence of the admiralty jurisdiction in this court, the

<sup>1</sup>Reported by Peter J. Hamilton, Esq., of the Mobile bar.

claim must be maritime in its nature, and the lien must exist either under the admiralty or the local law. The jurisdiction of the admiralty depends in contract on the maritime character of the contract. *The Pacific*, 9 Fed. Rep. 120; *The De Lesseps*, 17 Fed. Rep. 460; *The Glenmont*, 32 Fed. Rep. 703; *The Royal George*, 1 Woods, 290; *The Madrid*, 40 Fed. Rep. 677. A contract for the building and equipment of a vessel is essentially non-maritime. Authorities cited *supra*, and *Roach v. Chapman*, 22 How. 129; *Ferry Co. v. Beers*, 20 How. 393; *Edwards v. Elliott*, 21 Wall. 532. The work, being done in the original construction of the vessel, is not maritime in its nature, and does not give rise to a maritime contract. Nor can it be made so by the state statute, the only effect of which is to attach a lien to a contract originally maritime in nature, and not to make a contract maritime which is not so originally. So the cases cited have expressly adjudged.

The libel in this case must be dismissed, and it is so ordered.

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THE CHARLES HEBARD, etc.

LYONS *et al.* v. THE CHARLES HEBARD, etc.

(District Court, E. D. Michigan. February 18, 1891.)

1. COLLISION—NEGLIGENT TOWAGE.

The tug A., with two schooners in tow, was ascending the St. Clair. She was just passing a raft 1,800 feet long and 250 feet wide, followed at some distance by the steamer H., with three schooners in tow. Passing signals were exchanged that the tows should go starboard to starboard. The A. hugged the American shore so closely that upon the approach of the H., or almost immediately afterwards, she and her tow were grounded. The H., having been advised further up the stream of the presence of the raft, was running very slowly, and, after rounding the corner of the raft, and running along-side near enough to touch it, received a hail from the first schooner that her tow-lines were in danger of fouling with the raft, and checked her speed further, and her tow, loosing steerage-way, was swept by the current into collision with the tow of the A. *Held*, that the H. was at fault in permitting her tow to lose the necessary steerage-way.

2. SAME—INEVITABLE ACCIDENT.

An inscrutable cause of collision will not be assumed because the fault of navigation does not appear by the proof, if the physical conditions be such that they fairly repel the suggestion of inevitable accident and indicate some unknown bad management as the real cause of the injury.

In Admiralty.

The tug American Eagle, with two schooners in tow, was ascending the St. Clair river just below the lower end of the south-east bend. A raft 1,800 feet long and about 250 feet wide, in tow of a tug, was descending the same bend, followed some distance above by the steamer Charles Hebard, with three schooners in tow. The tows were all attached by lines about 500 feet long, each. Above the bend the Hebard was notified by a passing steamer to look out for a raft below. She was then under full headway, but soon after this notice checked her speed somewhat. The night was clear, and the wind from the eastward, but