

37 Fed. Rep. 432, 434, affirmed as to this point on appeal, 43 Fed. Rep. 803.

By the bills of lading the cargo in question seems to have been shipped by Carleton & Moffit. The vessel was bound for Shanghai, China; and the cargo was deliverable there. The relations between Barbour & Co. and Carleton & Moffit, both of New York, do not appear. The charter was one of affreightment, for a lump sum. The objections to the validity of stipulations exempting common carriers from responsibility for negligence, namely, the policy of the law of this country, the unequal situation of the parties, and the lack of sufficient evidence of actual intention and freedom of contract, apply precisely the same to a stipulation for the adoption of the law of another country, as to the original exemption. That stipulation is plainly nothing but a further device to secure the same unlawful exemption as the preceding exempting clause, which could not stand alone. The *Brantford City*, 29 Fed. Rep. 373, 396.

Such an additional stipulation, so far as it relates to the same exemption of liability for negligence, must fall with the latter. Nor can a rule of law founded on public policy be set aside in our own courts by any stipulation to adopt the law of another country.

Decrees for the libelants in each case, with costs.

THE BALTIMORE.

THE DASORI.

HOME INS. CO. v. MAYOR, ETC., OF CITY OF NEW YORK et al.

(District Court, S. D. New York. April 10, 1893.)

COLLISION—STEAM VESSELS CROSSING.

Collision occurred between a scow insured by libelant, when going up the North river in tow of the tug D., and the ferryboat B., leaving her slip in New York to cross the river. The D. whistled twice, but the pilot of the ferryboat did not heed the signal, and kept on to cross the bows of the tow after he had observed her threatening approach. *Held*, that the ferryboat was in fault; but as the starboard hand rule required the D. to keep out of the way, and as she attempted to cross the bow of the ferryboat, *held*, that she took the risk of the attempt. She was also in fault for not heeding the long whistle of the B., and in not giving danger signals. The damages were therefore divided.

In Admiralty. Libel of the Home Insurance Company against the Mayor, Aldermen, and Commonalty of the City of New York, and also against the Pennsylvania Railroad Company, to recover for a collision. Decree for libelant.

Carpenter & Mosher, for libelant.

Ward & Sterling, for the Mayor, etc., of City of New York.

Robinson, Biddle & Ward, for Pennsylvania R. Co.

BROWN, District Judge. About 5 o'clock in the afternoon of May 20, 1890, as dumping scow No. 6 was going up the North river in tow on the starboard side of the city's steam tug Dasori, bound for the foot of Canal street, the scow came in collision with the railroad company's ferryboat Baltimore, which had just come out of her slip at Desbrosses street, and the port quarter of the ferryboat carried away part of the bow of the scow. The above libel was filed to recover the damages.

There is considerable contradiction in the details of the evidence. But there is one fault which stands out clearly on each side, for which I find no legal justification or excuse, viz.:

1. On the part of the ferryboat: That her pilot did not observe the Dasori's signal of two whistles, and when arriving near the mouth of the slip, a point from which he could undoubtedly perceive the near and threatening position of the Dasori, gave one whistle, and went on in the face of danger of collision, instead of reversing and stopping at the mouth of the slip, as he might and should have done under such circumstances, in accordance with old rule 21. *The Greenpoint*, 31 Fed. Rep. 231; *The Rockaway*, 38 Fed. Rep. 856, affirmed 43 Fed. Rep. 544.

2. On the part of the Dasori: That she did not take proper maneuvers to keep out of the way, by stopping and reversing as she might have done when she saw the Baltimore coming out of her slip, the Dasori being bound to keep out of the way, as the Baltimore was on her own starboard hand. But instead of that, the Dasori gave two whistles, undertaking to cross her bow, which she could not do without collision. She was also in fault for not attending to the long whistle given by the Baltimore before leaving her slip and not governing herself accordingly; either by giving at once a danger signal to apprise the Baltimore of her presence, the view of the Baltimore being obscured by the shed between them, or by stopping at once and reversing, which would have avoided collision.

The libellant is, therefore, entitled to recover damages against both respondents, with costs.

WADE v. SEWELL et al.

(Circuit Court, D. Maryland. May 12, 1893.)

1. JUDGMENT—LIEN—RESULTING TRUSTS.

A. and B. purchased certain lands for the purpose of an immediate resale at an advance. A. furnished all the purchase money, and B.'s only interest was the right to receive one-half of the profits, if any were realized, but for convenience the legal title was conveyed to him. *Held*, that there was a resulting trust in favor of A., and B. had no such interest as to render the land subject to the lien of an existing judgment against him.

2. INSOLVENCY — DISCHARGE UNDER STATE LAWS — NONRESIDENT DEBTORS — TRUSTS.

Where a judgment is recovered by a trustee under a will, the subsequent discharge of the judgment debtor under the insolvent laws of the state discharges him from the obligation of the judgment in respect to the interests of nonresidents as well as resident beneficiaries; for the trustee represents the beneficiaries, and, being subject to the jurisdiction of the insolvent court, the discharge operates through him upon all interests represented.

In Equity. Petition by Francis O. Singer, in the suit of Sarah C. Wade against Thomas Sewell, Jr., and Richard Sewell, Jr., praying that certain real estate, the legal title of which was held by Richard Sewell, should be decreed not to be subject to the lien of a decree heretofore rendered against the defendants. Petition granted.

Rich & Bryan, for petitioner.

Edward Otis and John Hinkley, for trustees.

MORRIS, District Judge. This equity suit was instituted in 1876 by the complainant, who was a citizen of Massachusetts, against the respondents, who were citizens of Maryland, to obtain an accounting of a trust created by the will of Thomas Sewell, late of Baltimore city, deceased. By a decree passed 13th June, 1877, Edward Otis Hinkley was appointed trustee to execute the trusts created by said will in respect to the share of Mrs. Wade, the complainant, who was a life tenant, and such proceedings were had that a decree was entered in favor of Mr. Hinkley, as trustee, January 11, 1883, against the respondents, for the sum of \$9,452.91, money due by them to the trust estate. This decree remains unsatisfied, and the complainant, Mrs. Wade, having died without children, the persons who by said will, and by the contingent and cross remainders, are either immediately or contingently beneficially interested in the said trust fund, are numerous, and are some of them citizens of Maryland, and some of them citizens of other states. In 1891, Richard Sewell, one of the respondents and one of the judgment debtors, under the decree of this court, applied for the benefit of the Maryland insolvent laws, and was discharged on June 20, 1891, from all his debts and contracts.

In December, 1892, certain real estate in Baltimore was conveyed to the said Richard Sewell, and upon his attempting to sell, and convey it to a purchaser, objection was made that the decree of this court of January 11, 1883, for \$9,452.91, might be held to be