

ceeding in the court of admiralty for the arrest of the ship, solely upon the ground that such an arrest was a sequestration, within the meaning of section 163 of the act, by which, "where any company is being wound up by the court, or subject to the supervision of the court, any attachment, sequestration, distress or execution, put in force against the estate or effects of the company after the commencement of the winding up, shall be void to all intents."

It is also to be remembered that maritime liens, and the admiralty jurisdiction over them, are allowed less effect by the law and statutes of England than by the constitution and laws of the United States. The *J. E. Rumbell*, 148 U. S. 1, 20, 13 Sup. Ct. 498. Decree affirmed.

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THE TAURUS.

THE KATE JONES.

SCULLY v. THE TAURUS and THE KATE JONES.

BOSTON STEAMBOAT CO. v. SCULLY (two cases).

(District Court, S. D. New York. July 10, 1894.)

TOWAGE—GROUNDING OF BARGES—NEGLIGENCE—SALVAGE.

The tug T. took the Blackstone, Condor, and two other barges, to tow through the Sound to Boston. When off Wood's Holl, there was a gale from the northeast, and the tug K., a helper, took the two barges named, and the pilots put into Vineyard Haven for a harbor. The latter tug followed the T., but as they approached Vineyard Haven the K. kept more to the southward and westward, too near to the West Chop, and much nearer than the T. The wind hauled to the east, and, before either the Blackstone or Condor swung to anchor, each grounded. The Blackstone was soon got off, and hauled into better water, by the T., but the Condor lay ashore all night. There were no such obstructions by other vessels as to justify the K. in directing the barges to anchor where she did, and they could have been taken further to the southward and eastward. The available water was nearly a mile wide from where they grounded. The master of the K. was not well acquainted with the shoals in that locality, and the T. did not keep near enough to give directions to the K. The Condor had a free board of but 2½ or 3 feet, and drifted slowly, and neither her condition nor the lack of men contributed to her going ashore. *Held*, that the stranding was caused by the negligence of the tugs, that they were liable for damages to the barges, and that their owner was entitled to pro rata freight only, and could not recover salvage compensation.

Three libels,—one by John Scully, owner of the barges Blackstone and Condor, against the steam tugs Taurus and Kate Jones, etc., to recover damages for injuries to such barges caused by stranding while in tow by libelees; one by the Boston Steamboat Company against John Scully, owner of the barges Blackstone and Condor, for towage; and one by the same libelant against John Scully, owner of the barge Condor, to recover salvage compensation.

McCarthy & Berrier, for Scully.

Wilcox, Adams & Green, for Boston Towboat Co.

BROWN, District Judge. The above actions arose out of the grounding of the barges Blackstone and Condor, at about 7 or 8

p. m., on May 3, 1893, not far from the West Chop, while going into Vineyard Haven, in tow of the steam tug Kate Jones. The barges were first taken in tow at Riker's island by the tug Taurus, with two other barges belonging to the Boston Towboat Company, to be towed through the Sound to Boston. Off New London, the weather being somewhat threatening, the Taurus turned for that port; but soon afterwards the tug Kate Jones, which had been sent forward as a helper, overtook the Taurus, and the two thereupon continued on the course up the Sound. At about 6 p. m., when off Wood's Holl, the weather having increased to a gale from the northeast, or east-northeast, the pilots concluded to cross the Sound and put into Vineyard Haven for a harbor; they thereupon divided the tow, the Kate Jones taking the Blackstone and Condor, one behind the other, each on a hawser from 100 to 125 fathoms long, and following the Taurus, which took the other two barges. As they approached Vineyard Haven the Taurus kept more to the northward, and took her tow a little way inside of the line of the East and West Chops, to within about one-quarter of a mile of the East Chop shore; the Kate Jones kept more to the southward and westward, and rounded much nearer to the West Chop. What followed, is a subject of extreme contradiction and dispute; but it is certain that before either the Blackstone or the Condor swung to her anchor, each grounded on the west shore, probably from a quarter to a half mile distant from the West Chop. The Blackstone, after receiving some injury from pounding, was got off about 9 p. m. by the Taurus, which was signaled for assistance, and on arrival, she hauled her away about three-quarters of a mile into better water, without much difficulty. The Condor lay ashore pounding until the next day, when on examination her bottom was found good, so that after being pumped out, and having about one-fifth of her cargo of 715 tons of coal removed, she was towed to New Bedford and discharged. The first action is to recover for the damages to the two barges on the claim that the stranding was through the negligence of the tugs. The second action was by the tug owners for towage, and the third by the tug owners also, to recover salvage compensation; both of the latter actions being based on the contention that the stranding was by no fault of either tug.

The following findings cover the chief points in controversy. I find:

1. That the Condor was sound and strong below the water line, though her top-sides and deck were poor; that she was rather deeply loaded, having a free board of but  $2\frac{1}{2}$  to 3 feet, while the other boats had from 4 to 6 feet; that these circumstances were known to the Taurus before starting from Riker's island; and that with careful and prudent management, the Condor was not unfit for the voyage, and was seaworthy for the trip; that although her decks were poor, she did not take in much water, even when in the trough of the sea, when washed by the waves before grounding; and that her condition, whatever it was, in no way contributed to her going ashore; and that her small free board and deep draught of  $16\frac{1}{2}$  feet both retarded her drift towards the shore.

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