

and in some instances the tempered strip was wider yet. The utmost effect that can be given to the second claim, therefore, is to hold that it covers blades where the temper line, although not mathematically, is yet practically, coincident with the base line.

As thus construed, the defendants' saws infringe neither claim of the patent. The depth of their teeth is somewhat less than $1/32$ of an inch; and the depth of high temper, measuring from the extreme points of the teeth, is $5/32$, or over.

The bill is dismissed, with costs.

PRICE v. THE BELLE OF THE COAST.

(District Court, E. D. Louisiana. December 21, 1894.)

No. 13,167.

ADMIRALTY—JURISDICTION.

Admiralty has no jurisdiction of a tort where the injury was received on the land, though the wrongful act was done on a ship.

Libel by John Price against the Belle of the Coast. Opinion on an exception to the jurisdiction.

W. W. Handlin, for libelant.

Farrar, Jonas & Kruttschnitt, for claimant.

PARLANGE, District Judge. This is an action in rem by which damages in the sum of \$2,500 are claimed. The injury complained of is stated in the libel as follows:

"Libelant * * * was ordered by the mate to get under one corner of a chain bar, and assist in carrying a large and heavy barrel of coal oil on shore; and, as libelant stepped off the end of the stage, he fell into a deep hole, unseen by him, and the end of said barrel struck him on his right shoulder, right arm and hand, and right thigh, wedging him in so that he could not get out without assistance after said barrel was pulled out. Libelant's shoulder and hand were wounded, and his thigh and spine were jammed and crushed," etc.

In the case of *The Plymouth*, 3 Wall. 33, the supreme court of the United States said:

"The origin of the wrong was on the water, but the substance and consummation of the injury on land. It is admitted by all the authorities that the jurisdiction of the admiralty over marine torts depends on locality,—the high seas or other navigable waters within admiralty cognizance. * * * The cause of the damage, in technical language, whatever else attended it, must have been there complete." Again: "The simple fact that it originated there [on navigable waters], but the whole damage done upon land, the cause of action not being complete on navigable waters, affords no ground for the exercise of the admiralty jurisdiction. The negligence of itself furnishes no cause of action."

See, also, the case of *The H. S. Pickands*, 42 Fed. 239, in which the court said:

"It has never been doubted since the case of *The Plymouth*, 3 Wall. 20, that, to enable us to take cognizance of a maritime tort, the injury must have been consummated, and the damage received, upon the water. The mere fact that the wrongful act was done upon a ship is insufficient. Subsequent

adjudications have in no wise tended to limit or qualify this rule. [Cases cited.]”

Viewed in the light of the above authorities, I am clear that there is no jurisdiction of the instant case in the admiralty. The exception must be sustained.

CUBAN STEAMSHIP CO., Limited, v. FITZPATRICK, Mayor, et al.

(Circuit Court, E. D. Louisiana. February 16, 1895.)

1. SHIPPING—DUTIES OF CREW—LOUISIANA CONSTITUTION AND ACT 76 OF 1880.

The constitution of Louisiana (article 255) provides that the general assembly shall pass laws to prevent sailors and others of the crew of foreign vessels from working on the wharves and levees of the city of New Orleans, provided there is no treaty between the United States and foreign ports to the contrary. Act 76 of 1880, passed in pursuance of this provision, enacts that no sailor or portion of the crew of foreign vessels shall engage in working on the wharves or levees of New Orleans beyond the end of the vessels' tackle, but provides that it shall not apply to the crews of vessels hailing from countries having treaties with the United States to the contrary, nor to contracts of which the United States courts have jurisdiction. *Held*, that such constitutional provision and statute do not prohibit the crews of foreign vessels from loading and unloading their ships, such services being an implied part of every sailor's contract of employment, and within the jurisdiction of the United States courts, in admiralty.

2. CONSTITUTIONAL LAW—FOREIGN COMMERCE — LOUISIANA CONSTITUTION AND ACT.

Held, further, that, if such constitutional provision and statute are intended to prohibit the rendering of such services by crews of foreign vessels, they are void, as regulations of commerce with foreign nations, because in contravention of the provisions of the constitution (article 1, § 8, par. 3) of the United States.

This was a suit by the Cuban Steamship Company, Limited, against the mayor and chief of police of the city of New Orleans, to enjoin said officers, their subordinates, etc., from interfering with the loading of a ship belonging to the plaintiff. Plaintiff moves for a preliminary injunction.

Farrar, Jonas & Kruttschnitt, for plaintiff.

E. A. O'Sullivan, for defendants.

PARLANGE, District Judge. Complainant, an alien corporation, domiciled in London, England, avers that it is the owner of the steamship Cayo Mono, of about 1,750 tons burden, duly registered as a British ship; that said ship is now lying in the port of New Orleans, where she has come to take on a general cargo to be transported from the United States to London and Antwerp; that she is engaged in commerce between Great Britain and the United States; that, while her officers and crew were lawfully and properly engaged in loading said ship with cargo, under the law of nations and the general rules of maritime law, the captain of the vessel was approached by a police officer belonging to the police force of the city of New Orleans, acting under instructions from the mayor of the city, and from the chief of police of the city; and that said police officer ordered said captain to desist from stowing or loading