

**The General Smith**

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**Court :** US Supreme Court

**Decided On :** 1819

**Appeal No. :** 17 U.S. 438

**Appellant :** The General Smith

**Judgement :**

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**The General Smith**

**17 U.S. (4 Wheat.) 438**

*APPEAL FROM THE CIRCUIT*

*COURT OF MARYLAND*

## **SYLLABUS**

The admiralty possesses a general jurisdiction in case of suits by materialmen *in personam* and *in rem*.

Where, however, the proceeding is *in rem* to enforce a specific lien, it is incumbent upon the party to establish the existence of such lien in the particular

case. Where repairs have been made or necessaries furnished to a foreign ship or to a ship in a port of the state to which she does not belong, the general maritime law gives the party a lien on the ship itself for his security, and he may maintain a suit *in rem* in the admiralty to enforce his right.

But as to repairs and necessaries in the port or state to which the ship belongs, the case is governed altogether by the local law, and no lien is implied unless by that law.

By the common law, materialmen furnishing repairs to a domestic ship have no particular lien upon the ship itself for their demand.

A shipwright who has taken a ship into his possession to repair it is not bound to part with the possession until he is paid for the repairs. But if he parts with the possession (of a domestic ship) or has worked upon it without taking possession, he has no claim upon the ship itself.

The common law being the law of Maryland, on this subject, it was held that materialmen could not maintain a suit *in rem* in the District Court of Maryland for supplies furnished to a domestic ship, although they might have maintained a suit *in personam* in that court.

This was a libel, filed on 4 October, 1816, in the District Court of Maryland setting forth that James Ramsey, the libellant, had supplied and furnished for the use, accommodation and equipment of the ship *General Smith*, at Baltimore, in the District

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of Maryland, to equip and prepare her for a voyage on the high seas, various articles of cordage, ship-chandlery, and stores, amounting in the whole to the value of \$4,599.75, for no part of which he had received any compensation, payment or security. That the said ship was then owned by a certain George Stevenson, to whom he had applied for payment of said materials furnished, but without effect. And praying the usual process against the ship, and that she should

be sold under the decree of the court to pay and satisfy the libellant his claim. A claim was given for the ship by John Hollins and James W. McCulloch, merchants, of Baltimore.

On the hearing of the cause in the court below, it was proved or admitted by the parties that the ship was an American vessel, and formerly was the property of George P. Stevenson, a merchant of Baltimore and a citizen of the United States, and that whilst the ship so belonged to Stevenson, the libellant, a ship chandler of Baltimore, furnished for her use various articles of ship chandlery to equip and furnish her, it being her first equipment, to perform a voyage to a foreign country, to-wit, to Rotterdam and Liverpool and back to Baltimore. That Stevenson was also the owner of several other vessels for which the libellant, from time to time, furnished articles for their equipment for foreign voyages, and that payments were made by Stevenson to the libellant at different times on their general account without application to any particular part of the account. That the ship soon afterwards sailed, &c.; That the ship departed

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from Baltimore on the voyage without any express assent or permission of the libellant and also without objection being made on his part and without his having attempted to detain her or enforce any lien which he had against her for the articles furnished. That the ship continued to be the property of said Stevenson during the said voyage and after her return, and was not sold or disposed of in any way by him until 3 October, 1816, when, finding himself embarrassed in his pecuniary affairs and obliged to stop payment, he executed an assignment to the claimants of his property, including the ship *General Smith*, in trust for the payment of all bonds for duties due by said Stevenson to the United States and for the payment and satisfaction of his other creditors, &c.;

Another libel was filed, on 11 November, 1816, against the same ship by Rebecca Cockrill, administratrix of Thomas Cockrill, deceased, alleging that the said Thomas, in his lifetime, at Baltimore in the said district did furnish a large amount of iron materials, and bestow much labor and trouble, by himself, and those hired

and employed by him in working up and preparing certain iron materials for building and preparing the said ship for navigating the high seas, all which materials and work and labor were in fact applied and used in the construction and fitting said ship according to a bill of particulars annexed. That the libellant had been informed and believed that said ship was owned and claimed by various persons in certain proportions, but in what proportions and who were the several owners

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she did not know, and could not therefore state. That neither the said Thomas in his lifetime nor the libellant since his decease had ever received any part of said account nor any security or satisfaction for the same. Concluding with the usual prayer for process, &c.;

A claim was given for the same parties, and at the hearing, the same proofs and admissions were made as in the suit of James Ramsey except that it did not appear that Thomas Cockrill had furnished any other vessels belonging to Stevenson with materials, nor that any payments on account had been made by said Stevenson to said Cockrill, or to the libellant as his administratrix.

The district court ordered the ship to be sold and decreed that the libellants should be paid out of the proceeds the amount of their demands for materials furnished. In the circuit court, this decree was affirmed *pro forma* by consent, and the cause was brought by appeal to this Court.

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STORY, JUSTICE, delivered the opinion of the Court.

No doubt is entertained by this Court that the admiralty rightfully possesses a general jurisdiction in cases of materialmen, and if this had been a suit *in personam*, there would not have been any hesitation in sustaining the jurisdiction of the district court. Where, however, the proceeding is *in rem* to enforce a specific lien, it is incumbent upon those who seek the aid of the court to establish

the existence of such lien in the particular case. Where repairs have been made or necessaries have been furnished to a foreign ship or to a ship in a port of the state to which she does not belong, the general maritime law, following the civil law, gives the party a lien on the ship itself for his security, and he may well maintain a suit *in rem* in the admiralty to enforce his right. But in respect to repairs and necessaries in the port or state to which the ship belongs, the case is governed altogether by the municipal law of that state, and no lien is implied unless it is recognized by that law. Now it has been long settled, whether originally upon the soundest principles it is now too late to inquire, that by the common law, which is the law of Maryland, materialmen and mechanics furnishing repairs to a domestic ship, have no particular lien upon the ship itself for the recovery of their demands. A shipwright, indeed, who has taken a ship into his own possession to repair it is not bound to part with the possession until he is paid for the repairs, any more than any other artificer. But if he has once parted with the possession,

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or has worked upon it, without taking possession, he is not deemed a privileged creditor, having any claim upon the ship itself.

Without, therefore, entering into a discussion of the particular circumstances of this case, we are of opinion that here there was not, by the principles of law, any lien upon the ship, and, consequently, the decree of the circuit court must be reversed.

*Decree reversed.*