The Plymouth

The Plymouth

SooperKanoon Citation : sooperkanoon.com/81280

Court : US Supreme Court

Decided On : 1865

Appeal No. : 70 U.S. 20

Appellant : The Plymouth

Judgement :

The Plymouth - 70 U.S. 20 (1865)
U.S. Supreme Court The Plymouth, 70 U.S. 20 (1865)

The Plymouth

70 U.S. 20

ERROR TO THE CIRCUIT COURT FOR

THE NORTHERN DISTRICT OF ILLINOIS

SYLLABUS

1. Where a damage done is done wholly upon land, the fact that the cause of the damage originated on water subject to the admiralty jurisdiction does not make the cause one for the admiralty.

2. Hence, where a vessel lying at a wharf, on waters subject to admiralty jurisdiction, took fire, and the fire, spreading itself to certain storehouses on the wharf, consumed these and their stores, it was held not to be a case for admiralty proceeding.

The steam propeller *Falcon,* employed by its owners in navigating our great northern lakes, anchored beside the wharf of Hough & Kershaw, in Chicago River -- "navigable water." Upon the wharf large packing houses were built, and these at the time were filled with valuable stores. Owing to the negligence of those in charge of the *Falcon,* the vessel took fire, and the flames, stretching themselves to the wharf and packing houses, set these last on fire, which with their stores were wholly consumed. Hough & Kershaw filed accordingly, in the District Court for the Northern District of Illinois, a libel in admiralty for cause of damage, civil and maritime, against the owners of the *Falcon,* and attached a vessel of theirs called the *Plymouth.*

The district court, regarding the case as not one for the admiralty dismissed the libel for want of jurisdiction. The circuit court, on appeal, considered that the dismissal was rightly made. The case was now here for review.

It is necessary to say that by act of Congress, [Footnote 1] the district courts of the United States possess admiralty jurisdiction "in matters of contract and tort arising in, upon, or concerning steamboats or other vessels" on our great northern lakes, the same as they do in cases of the like steamboats, and other vessels employed in navigation and commerce on the high seas and tidewaters.

Page 70 U. S. 33

MR. JUSTICE NELSON delivered the opinion of the Court:

The court below dismissed the libel for want of jurisdiction, and that question is the only one that has been argued in this Court.

It will be observed that the entire damage complained of by the libellants as proceeding from the negligence of the master and crew and for which the owners

of the vessel are sought to be charged occurred not on the water, but on the land. 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 upon locality -- the high seas, or other navigable waters within admiralty cognizance; and, being so dependent upon locality, the jurisdiction is limited to the sea or navigable waters not extending beyond high water mark.

In the case of *Thomas v. Lane,* [Footnote 2] Mr. Justice Story in a case where the imprisonment was stated in the libel to be on shore, observed:

"In regard to torts, I have always understood that the jurisdiction of the admiralty is exclusively dependent upon the locality of the act. The admiralty has

Page 70 U. S. 34

not, and never, I believe, deliberately claimed to have, any jurisdiction over torts except such as are maritime torts -- that is, torts upon the high seas or on waters within the ebb and flow of the tide."

Since the case of the *Genesee Chief,* navigable waters may be substituted for tide waters. This view of the jurisdiction over maritime torts has not been denied.

But it has been strongly argued that this is a mixed case, the tort having been committed partly on water and partly on land, and that as the origin of the wrong was on the water -- in other words, as the wrong began on the water (where the admiralty possesses jurisdiction) -- it should draw after it all the consequences resulting from the act. These mixed cases, however, will be found, not cases of tort, but of contract, which do not depend altogether upon locality as the test of jurisdiction, such as contracts of materialmen for supplies, charter parties, and the like. These cases depend upon the nature and subject matter of the contract, whether a maritime contract, and the service a maritime service to be performed upon the sea, or other navigable waters, though made upon land. The cases of torts to be found in the admiralty, as belonging to this class, hardly partake of the character of mixed cases, or have, at most, but a very remote resemblance. [

Footnote 3]

They are cases of personal wrongs which commenced on the land, such as improperly enticing a minor on board a ship and there exercising unlawful authority over him. The substance and consummation of the wrong were on board the vessel -- on the high seas or navigable waters -- and the injury complete within admiralty cognizance. It was the tortious acts on board the vessel to which the jurisdiction attached.

This class of cases may well be referred to as illustrating the true meaning of the rule of locality in cases of marine

Page 70 U. S. 35

torts, namely that the wrong and injury complained of must have been committed wholly upon the high seas or navigable waters, or at least the substance and consummation of the same must have taken place upon these waters to be within the admiralty jurisdiction. In other words, the cause of damage, in technical language, whatever else attended it, must have been there complete.

Much stress has been given to the fact by the learned counsel who would support the jurisdiction in his argument that the vessel which communicated the fire to the wharf and buildings was a maritime instrument or agent, and hence characterized the nature of the tort. In other words, that this characterized it as a maritime tort, and, of course, of admiralty cognizance.

But this, we think, is a misapprehension. The owner of a vessel is liable for injuries done to third persons or property by the negligence or malfeasance of the master and crew while in the discharge of their duties and acting within the scope of their authority. It is upon this principle that the defendants are liable, if at all, to the libellants for the damages sustained. The circumstance that the agents were in the employment of the owners on board the vessel, and that the negligence occurred while so employed, and which occasioned the damage, gives to the libellants the right of action. But if they had been employed upon any other structure in the river -- on a raft, or floating platform -- for work on the river and the fire had been

communicated to the wharf and buildings on account of their negligence while so engaged, the right of action would have been the same. The jurisdiction of the admiralty over maritime torts does not depend upon the wrong's having been committed on board the vessel, but upon its having been committed upon the high seas or other navigable waters.

A trespass on board of a vessel or by the vessel itself above tidewater, when that was the limit of jurisdiction, was not of admiralty cognizance. The reason was that it was not committed with the locality that gave the jurisdiction. The vessel itself was unimportant. The fact, therefore,

of its having taken place on board the propeller *Falcon* in the present case is not an element that imparts any peculiar character to the nature of the tort complained of. This is so in cases of collision, in which the offending vessel may be attached and proceeded against as one of the remedies for the wrong done. The jurisdiction of the admiralty does not depend upon the fact that the injury was inflicted by the vessel, but upon the locality -- the high seas or navigable waters where it occurred. Every species of tort, however occurring and whether on board a vessel or not, if upon the high seas or navigable waters, is of admiralty cognizance.

We can give, therefore, no particular weight or influence to the consideration that the injury in the present case originated from the negligence of the servants of the respondents on board of a vessel, except as evidence that it originated on navigable waters -- the Chicago River -- and, as we have seen, the simple fact that it originated there, 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; it is *damnum absque injuria.* The case is not distinguishable from that of a person standing on a vessel, or on any other support in the river and sending a rocket or torpedo into the city, by means of which buildings were set on fire and destroyed. That would be a direct act of trespass, but quite as efficient a cause of damage as if the fire had proceeded from negligence. Could the admiralty take jurisdiction?

We suppose the strongest advocate for this jurisdiction would hardly contend for it. Yet the origin of the trespass is upon navigable waters, which are within its cognizance. The answer is as already given: the whole or at least the substantial cause of action arising out of the wrong, must be complete within the locality upon which the jurisdiction depends -- on the high seas or navigable waters.

The learned counsel, who argued this case for the appellants with great care and research, admitted that it was one of first impression; that he could find no case in the books

Page 70 U. S. 37

like it. The reason is apparent, for it is outside the acknowledged limit of admiralty cognizance over marine torts, among which it has been sought to be classed. The remedy for the injury belongs to the courts of common law.

Decree affirmed.

[Footnote 1]

Act of February 26, 1845; 5 Stat. at Large 726.

[Footnote 2]

2 Sumner 9.

[Footnote 3]

Thomas v. Lane, 2 Sumner 2; *The Huntress,* per Ware J., Davies 85; *United States v. Magill,* 1 Washington C.C. 463; *Plumer v. Webb,* 4 Mason 383-384; 1 Kent 367* and n.