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**The Winnebago**

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**Court** : US Supreme Court

**Decided On :** Apr-08-1907

**Appeal No.** : 205 U.S. 354

**Appellant** : The Winnebago

**Judgement** :

The Winnebago - 205 U.S. 354 (1907)
U.S. Supreme Court The Winnebago, 205 U.S. 354 (1907)

**The Winnebago**

**No. 218, 219**

**Argued February 28, 1907**

**Decided April 8, 1907**

**205 U.S. 354**

*ERROR TO THE SUPREME COURT*

*OF THE STATE OF MICHIGAN*

## SYLLABUS

A state law will not be held unconstitutional in a suit coming from a state court at the instance of one whose constitutional rights are not invaded because, as against a class making no complaint, it might be held unconstitutional.

Whether a state lien statute, otherwise constitutional, applies to vessels not to be used in the waters of the state on whose credit the supplies were furnished, whether the lien was properly filed as to time and place, and what the effect thereof is as to *bona fide* purchasers without notice, are not federal questions, but the judgment of the state court is final and conclusive on this Court.

Whether a state lien statute is unconstitutional as permitting the seizure and sale of a vessel and the distribution of the proceeds in conflict with

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the exclusive jurisdiction in admiralty of the federal courts will not be determined in a suit from the state courts where no holder of a maritime lien is present contesting the unconstitutionality of the statute. A contract to build a vessel is not a maritime contract enforceable only in admiralty, but the remedy is within the jurisdiction of the state court, and this rule applies to items furnished the vessel after she has been launched, but which are really part of her original construction.

142 Mich. 84 affirmed.

These cases may be considered together. They are writs of error to the judgments of the Supreme Court of Michigan affirming the decrees of the Circuit Court of Wayne County, Michigan, enforcing liens for the De Laney Forge & Iron Company, defendant in error, in 218, and George W. Edwards and others, defendants in error in 219, and interveners in the original case.

The *Winnebago,* a steel steamer of 1,091 tons burden, was built by the Columbia Iron Works at St. Clair, Michigan. The contract price was $95,000; date of contract, March 8, 1902, between the Columbia Iron Works and John J. Boland and Thomas J. Prindeville. It was understood that these persons should organize a corporation to be known as the Iroquois Transportation Company. The contract

price was to be paid $31,000 in cash, from time to time; for the balance, the transportation company was to execute its notes to the amount of $16,000, to issue bonds for $48,000, to be secured by mortgage upon its property. On April 5, 1902, Boland and Prindeville assigned the contract to the Iroquois Transportation Company. Payments were made on the contract as follows: $7,500 at date of signing contract; 7,500, April 3, 1902; 4,000, April 14, 1902; 4,000, June 15, 1902; 4,000, July 15, 1902.

An additional $4,000 was paid on October 3, 1902, and two negotiable notes of $4,000 given, maturing respectively November 1, 1903, and November 1, 1904.

The steamer was launched March 21, 1903. After she was in the water, the work on the contract continued. On July 18, 1903, she was inspected, measured, enrolled, and licensed to

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be employed in domestic and foreign trade. This license was issued in the name of the Columbia Iron Works as owner.

On July 19, 1903, the Iroquois Transportation Company received a bill of sale of the steamer and delivered to the Columbia Iron Works ninety-six negotiable bonds of $500 each, secured by mortgage on the steamer, and paid the balance of the purchase money, which was to be paid in cash, then amounting between $400 and $500.

The agreement recited that possession was given to the Iroquois Transportation Company for the purpose of completing and finishing up those things still remaining undone on the steamer and required to be done by the iron works by the terms of the contract for the construction of the steamer,

"it being the sole intent and purpose of this agreement to enable the Iroquois Transportation Company to obtain immediate possession of the steamer, and without intending either to limit the extent of the obligation of said Columbia Iron Works under the original specifications."

The steamer left St. Clair for Lorain, Ohio, July 19, 1903. At that time, she was not completed, and workmen remained on her and went with her to St. Clair, where additional work was done upon her. She was afterwards engaged in carrying cargoes between points on Lake Erie and Lake Superior.

On July 30, 1903, the Columbia Iron Works made an assignment for the benefit of creditors. On August 25, 1903, the De Laney Forge & Iron Company served notice on the Iroquois Transportation Company that it made a claim of lien against the steamer for forging and material furnished, and on October 6, 1903, complaint was filed in the Circuit Court of Wayne County, Michigan, and shortly thereafter Edwards and others intervened in the case, claiming a lien. The Iroquois Company gave a bond under the statute for the release of the vessel. Decrees were rendered in favor of the claimants and interveners in the Circuit Court of Wayne County, and upon appeal they were affirmed in the Supreme Court of Michigan, 142 Mich. 84.

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MR. JUSTICE DAY delivered the opinion of the Court.

The Michigan statute under which the liens are claimed in this case is as follows:

"Third Compiled Laws of Michigan, p. 3254:"

"(10789) Sec. 2. Every water craft of above five tons burden used or intended to be used in navigating the waters of this state shall be subject to a lien thereon:"

"First, for all debts contracted by the owner or part owner, master, clerk, agent, or steward of such craft, on account of supplies and provisions furnished for the use of said water craft, on account of work done or services rendered, on board of such craft by seamen or any employee other than the master thereof; on account of work done or service rendered by any person in or about the loading or unloading of said water craft; on account of work done or materials furnished by mechanics, tradesmen, or others, in or about the building, repairing, fitting, furnishing, or equipping such craft: *Provided,* That when labor shall be performed

or materials furnished, as aforesaid, by a subcontractor or workman other than an original contractor, and the same is not paid for, said person or persons may give the owner or his agent, or the master or clerk of said craft, timely notice of his or their said claim, and from thenceforth said person or persons shall have a lien upon said craft *pro rata* for his or their said claims, to the amount that may be due by said owner to said original contractor for work or labor then done on said water craft. "

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Several objections are urged by the plaintiff in error which, if sustained, will result in the reversal of the judgments of the Supreme Court of Michigan. Some of them are of a nonfederal character. It is insisted that the statute does not apply in this case because the steamer *Winnebago* was not to be used in navigating the waters of Michigan within the terms of the statute. But this only presents a question of state law, upon which the judgment of the state court is final and conclusive. The same may be said as to the objection because the transportation company was a *bona fide* purchaser without notice of complainant's lien, and because complainant did not within a year file its claim for a lien with the proper court in the county in which it resided. These are state questions likewise concluded by the decision of the state court.

It is further contended that to seize the vessel and subject her to sale and the proceeds thereof to distribution in the state court would be in direct conflict with the exclusive jurisdiction in admiralty in the courts of the United States in favor of liens of a maritime character, and therefore the Michigan act is unconstitutional. No maritime lien is asserted in this case, and it is merely a matter of speculation as to whether any such claim existed or might be thereafter asserted. No holder of any such maritime lien is here contesting the constitutionality of the state law.

In a case from a state court, this Court does not listen to objections of those who do not come within the class whose constitutional rights are alleged to be invaded, or hold a law unconstitutional because, as against the class making no complaint, the law might be so held. This was distinctly ruled in a case decided at this term.

*New York ex Rel. Hatch v. Reardon,* 204 U. S. 152 . *See also Supervisor v. Stanley,* 105 U. S. 305 , 105 U. S. 311 ; *Lampasas v. Bell,* 180 U. S. 276 , 180 U. S. 283 -284; *Clark v. Kansas City,* 176 U. S. 114 , 176 U. S. 118 ; *Cronin v. Adams,* 192 U. S. 108 , 192 U. S. 114 .

There is no one in position in this case to make this objection, and, for aught that this record discloses, no such maritime

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lien existed. If this statute is broad enough to include strictly maritime liens, it can only be held unconstitutional, in a case coming from a state court, where the complaint on that ground is made by the holder of such a demand. We agree with Judge Severns, speaking for the Circuit Court of Appeals for the Sixth Circuit in a case directly involving this question, where other claimants upon the *Winnebago* had removed a case to the United States Circuit Court for the Eastern District of Michigan, whence it was taken to the circuit court of appeals:

"And the fact that she [the *Winnebago* ] might become subject to maritime liens would not destroy liens already lawfully acquired. It is true she might become subject to maritime liens which would be superior to the existing lien, and that such liens would have to be enforced in the admiralty. But that possibility does not defeat the enforcement by a state court of the nonmaritime lien to which she is subject. How else is the owner of the latter to obtain his remedy? It may be the vessel will never become subject to maritime liens at all, and if so, the holder of the existing lien may never have even the privilege of proving his claim in some cause instituted for another purpose. But no such supposed embarrassment has yet occurred. And they are as yet imaginary. But suppose such other liens should attach. That should not prevent the enforcement of the earlier lien in the proper court. If the holder of the earlier lien delays his action, he subjects himself to the danger of superior liens becoming fastened, and the enforcement of his own lien in the state court must leave the vessel subject to the superior liens of which the state court cannot take cognizance. If occasion requires, and the admiralty court enforces the superior liens, it is in no wise obstructed by the action of the state

court, and a title under a decree of the former court would defeat the title gained under the decree of the state court. The case of *Moran v. Sturges,* 154 U. S. 256 , is a good illustration of this subject. There is no difficulty other than such as may happen in case one court should take and have possession of the vessel at a time when the other

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should require it; but that is an incident common along all the lines of concurrent proceedings in the state and federal courts, and gives no ground for the denial of jurisdiction to either."

*The Winnebago,* 141 F. 945.

It is next insisted that the materials and supplies were not furnished on the credit of the vessel, but were contracted for, furnished, and delivered on the credit of the Columbia Iron Works.

The findings upon this proposition are again questions within the exclusive jurisdiction of the state court. The findings will not be disturbed here.

It is next objected that the court erred because certain items were allowed for material furnished the vessel after she was launched, and therefore the subject of exclusive jurisdiction for which a lien could only be enforced in the admiralty. But we agree with the state court that these items were really furnished for the completion of the vessel, and were fairly a part of her original construction. In such a case, the remedy was within the jurisdiction of the state court. *The Iosco,* Fed.Cas. No. 7,060; *The Victorian,* 24 Or. 121; *The Winnebago,* 141 F. 945.

It is urged that the attempt to enforce the lien on the vessel was while she was engaged in interstate commerce, and therefore proceedings against her were unlawful and void in view of the exclusive control of this subject by Congress under the Constitution and laws of the United States. But it must be remembered that, concerning contracts not maritime in their nature, the state has authority to make laws and enforce liens, and it is no valid objection that the enforcement of

such laws may prevent or obstruct the prosecution of a voyage of an interstate character. The laws of the states enforcing attachment and execution in cases cognizable in state courts have been sustained and upheld. *Johnson v. Chicago & Pacific Elevator Co.,* 119 U. S. 388 , 119 U. S. 398 . The state may pass laws enforcing the rights of its citizens which affect interstate commerce, but fall short of regulating such commerce in the sense

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in which the Constitution gives exclusive jurisdiction to Congress. *Sherlock v. Alling,* 93 U. S. 99 , 93 U. S. 103 ; *Kidd v. Pearson,* 128 U. S. 1 , 128 U. S. 23 ; *Pennsylvania R. Co. v. Hughes,* 191 U. S. 477 .

Upon the subject, Mr. Justice Brown, speaking for the Court in *Knapp v. McCaffrey,* 177 U. S. 638 , 177 U. S. 642 , said:

"That wherever any lien is given by a state statute for a cause of action cognizable in admiralty, either *in rem* or *in personam,* proceedings *in rem* to enforce such lien are within the exclusive jurisdiction of the admiralty courts."

"But the converse of this proposition is equally true -- that if a lien upon a vessel be created for a claim over which a court of admiralty has no jurisdiction in any form, such lien may be enforced in the courts of the state. Thus, as the admiralty jurisdiction does not extend to a contract for building a vessel, or to work done or materials furnished in its construction ( *The Jefferson, People's Ferry Co. v. Beers,* 20 How. 393; *Roach v. Chapman,* 22 How. 129), we held in *Edwards v. Elliott,* 21 Wall. 532, that, in respect to such contracts, it was competent for the states to enact such laws as their legislatures might deem just and expedient, and to provide for their enforcement *in rem.* "

The contract in this case being for the construction of a vessel, and its enforcement within the power and jurisdiction of the state courts, we do not think that execution of such a decree can be avoided because the vessel engaged in interstate commerce.

Finally, an elaborate and able argument is made in support of the contention that a contract to build a ship is a maritime contract, and therefore can be enforced only in admiralty; but, as late as this term, in *Graham & Morton Transportation Company v. Craig Shipbuilding Company,* this contention was overruled upon the authority of the previous decisions of this Court. 203 U.S. 577.

The judgments of the Supreme Court of Michigan are

*Affirmed.*

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