

The Raithmoor

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Appeal No. : 241 U.S. 166

Appellant : The Raithmoor

Judgement :

The Raithmoor - 241 U.S. 166 (1916)

U.S. Supreme Court The Raithmoor, 241 U.S. 166 (1916)

The Raithmoor *

No. 24

Argued January 26, 1916

Decided May 1, 1916

241 U.S. 166

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SYLLABUS

In determining whether the admiralty has jurisdiction over an incompleated structure in navigable waters to be used when completed as a governmental aid to navigation, its location and purpose are controlling from the time it was begun.

The jurisdiction that admiralty has over an incompleated structure in course of construction extends to that which is a mere incident to such construction.

The admiralty has jurisdiction of a libel *in rem* against a vessel for damages caused by its colliding with an incompleated beacon in course of construction in and surrounded by navigable waters and which, when completed, is to be used solely as a governmental aid to navigation.

186 F. 849 reversed in part.

The facts, which involve the jurisdiction in admiralty of the district court of a libel *in rem* against a vessel for damages caused by its colliding with an incompleated beacon in navigable water, are stated in the opinion.

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MR. JUSTICE HUGHES delivered the opinion of the Court.

The appellant filed a libel *in rem* in the admiralty against the steamship *Raithmoor* to recover damages for tort. The steamship, coming up the Delaware River on the evening of July 18, 1909, collided with a scow and pile driver belonging to the appellant, and also with a structure which the appellant was erecting for the United States to serve as a beacon, and with a temporary platform used in connection with the work of construction. For the injury to the scow and pile driver, a decree was entered in favor of the libellant. But the district court

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held that there was no jurisdiction in the admiralty of the claim for the damage to the structure and platform, and the libellant appeals. *The Raithmoor*, 186 F. 849.

The district court thus states the character and location of the structure:

"The company [the appellant] was executing an independent contract with the United States, which bound them to furnish the necessary materials, labor, plant, etc., and to erect in place a foundation pier to receive a gas beacon. The work was under the continual supervision of a government official, but had neither been finished nor accepted. The structure was to consist of three cylindrical piles of reinforced concrete to be sunk about 19 1/2 feet into the bottom of the river, and to project 12 feet above mean high water, these to be covered with a sheet steel cap. The piles were to be encased in steel and to be protected also by depositing rip-rap around them to a specified height. When completed, the pier was to be used solely as a beacon on the edge of a navigable channel that has not yet been made ready, and the government was to install upon the cap a lamp and other appliances. The site is three-fourths of a mile from the eastern or New Jersey shore and about two miles from the western or Delaware shore of the river, and is surrounded by navigable water, about twenty-seven feet deep at low tide. The work was begun in June, and at the time of the collision was approaching completion. The piles were in place, and not much remained to be done except to put the metal cap into place and deposit the rip-rap. The necessities of the work required a temporary platform to be built close to the concrete piles. This was of wood, about 15 feet square, and rested upon wooden pilings driven into the bottom of the river."

Id., p. 850.

The decisions of this Court with respect to the jurisdiction

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of the admiralty in cases of tort make the question to be determined a very narrow one. In [*The Plymouth*](#), 3 Wall. 20, [70 U. S. 36](#) , it was broadly declared that

"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 the navigable waters."

Accordingly, it was held that a libel for damage to a wharf and storehouses, caused by a fire started on a vessel through negligence, was beyond the limit of admiralty cognizance, as the damage was wholly done, and the wrong was thus consummated, upon the land. Upon this ground, the jurisdiction of the district court to entertain a petition for the limitation of the liability of the shipowner in such a case was denied in *Ex Parte Phenix Ins. Co.*, [118 U. S. 610](#) . The principle was restated in *Johnson v. Chicago &c.; Elevator Co.*, [119 U. S. 388](#) , [119 U. S. 397](#) . And see *Knapp, Stout & Co. v. McCaffrey*, [177 U. S. 638](#) , [177 U. S. 643](#) ; *Homer, Ramsdell Co. v. La Compagnie Generale Transatlantique*, [182 U. S. 406](#) , [182 U. S. 411](#) . But in *The Blackheath*, [195 U. S. 361](#) , a distinction was drawn, and the jurisdiction of the admiralty was upheld in the case of an injury caused by a vessel in negligently running into a beacon which stood fifteen to twenty feet from the channel of Mobile River, or Bay, in water twelve to fifteen feet deep, and was built on piles driven firmly into the bottom. The Court pointed out the essential basis of the decision in saying:

"It is enough to say that we now are dealing with an injury to a government aid to navigation from ancient times subject to the admiralty -- a beacon emerging from the water, injured by the motion of the vessel, by a continuous act beginning and consummated upon navigable water, and giving character to the effects upon a point which is only technically land, through a connection at the bottom of the sea."

Id., p. [195 U. S. 367](#) . It was suggested in the concurring opinion of Mr. Justice Brown (*id.*, p. [195 U. S. 368](#)) that the decision

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practically overruled the earlier cases, and that it recognized the principle of the English statute extending the jurisdiction of the admiralty court to "any claim for damages by any ship." This consequence, however, was expressly denied in *Cleveland Terminal R. Co. v. Cleveland Steamship Co.*, [208 U. S. 316](#) , [208 U. S. 320](#) . In that case, it was decided that the admiralty did not have jurisdiction of a claim for damages caused by a vessel adrift, through its alleged fault, to the center pier of a bridge spanning a navigable river and to a shore abutment and

dock. Referring to *The Blackheath* and drawing the distinction we have noted, the Court said:

"The damage [that is, in *The Blackheath*] was to property located in navigable waters, solely an aid to navigation and maritime in nature, and having no other purpose or function. . . . But the bridges, shore docks, protection piling, piers, etc. [of the Cleveland Terminal Company] pertained to the land. They were structures connected with the shore, and immediately concerned commerce upon land. None of these structures were aids to navigation in the maritime sense, but extensions of the shore, and aids to commerce on land as such."

The decision in *The Troy*, [208 U. S. 321](#) , was to the same effect. The steamer *Troy* had collided with the center pier of a swinging span over the St. Louis River, a navigable stream, and the jurisdiction of the admiralty of a libel for the injury was denied. See also *Phoenix Construction Co. v. The Poughkeepsie*, 212 U.S. 558; *Martin v. West*, [222 U. S. 191](#) , [222 U. S. 197](#) .

If, then, in the present instance, the metal cap of the beacon had been in place, the rip-rap deposited, and the beacon put into actual service, the case would fall exactly within the ruling of *The Blackheath*, and the admiralty would have jurisdiction although the structure was attached to the bottom. There would be no difference in the two cases which would afford the slightest ground for argument. If, on the other hand, simply because of the

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incompleteness of the beacon, it is to be exclusively identified with the land, and its intended purpose is to be disregarded, the admiralty would have no jurisdiction. We think that a distinction based solely on the fact that the beacon was not fully completed would be a needless refinement -- a nicety in analysis not required by reason or precedent. We regard the location and purpose of the structure as controlling from the time the structure was begun. It was not being built on shore and awaiting the assumption of a maritime relation. It was in course of construction in navigable waters -- that is, at a place where the jurisdiction of admiralty in cases

of tort normally attached -- at least in all cases where the wrong was of a maritime character. See *The Plymouth, supra*; *Atlantic Transport Co. v. Imbroke*, [234 U. S. 52](#) , [234 U. S. 58](#) -61, and cases there cited. The relation of the structure to the land was of the most technical sort, merely through the attachment to the bottom; it had no connection, either actual or anticipated, with commerce on land. It was simply to serve as an aid to navigation, and while it had not yet been finished and accepted, it was being erected under the constant supervision of a government inspector acting under the authority of the United States in the improvement and protection of navigation. It is urged that the government might abandon its plan, but there has been no abandonment. The question is not as to an abandoned mass, but as to a beacon in course of erection. Even a completed beacon might be abandoned, and whatever question might arise in such a case is not presented here. Again, an analogy is suggested to the case of a vessel which is being constructed on shore, but the argument falls short, as it is to be remembered that as soon as a vessel is launched, although still incomplete, it is subject to the admiralty jurisdiction. *Tucker v. Alexandroff*, [183 U. S. 424](#) , [183 U. S. 438](#) . This is not the case of a structure which at any time was identified with the shore, but, from the beginning

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of construction, locality and design gave it a distinctively maritime relation. When completed and in use, its injury by a colliding ship would interfere, or tend to interfere, with its service to navigation; and, while still incomplete, such an injury would tend to postpone that service. We know of no substantial reason why the jurisdiction of the admiralty should be sustained in the one case and denied in the other.

With respect to the temporary platform, it is to be observed that this was a mere incident to the structure, and as such the jurisdiction would extend to the claim for the damage to it.

The decree, so far as it dismissed the libel for want of jurisdiction, is reversed, and the cause is remanded for further proceedings in conformity with this opinion.

It is so ordered.

* Docket title: *Latta & Terry Construction Company v. British Steamship "Raithmoor," William Evans, Master and Claimant.*

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