

U. S.]

IN RE "TRENTON."

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support of himself and his family, or lays out such surplus on lands or goods, I am not at present called upon to determine. The Courts say that in the meantime "*he* (and it would appear his family, also) *must live*," and as a necessary consequence his personal earnings (not rising to the magnitude before suggested) must be held to be exempt—as against the assignee of his estate, and, as I take it, for the same reason and on the same ground, equally so as against all and every of those for whom such Assignee is the Trustee and representative. The 68th Section of the Insolvent Act would not assist the present plaintiff, as no creditor could be allowed to do anything *in the name of the assignee*, which the assignee himself, on his own motion, could not be permitted to do. The result of the whole is that there is no fund in the hands of the garnishee which this primary creditor is entitled to recover or obtain, and the cause must be dismissed, the primary creditor paying the costs taxable to Clerk and Bailiff; no other costs to be taxed as against him.

UNITED STATES.

MARITIME CASES.

IN RE "TRENTON."

Sale of American vessel by Maritime Court of Ontario—Effect of extinguishment of liens.

[Detroit, Nov. 29th, 1880.]

This was a libel for supplies and materials furnished at Cleveland, the home port of the vessel, in 1876, for which a lien was claimed under the law of the state of Ohio. The present owner of the schooner appearing as claimant, pleaded in substance that in July, 1878, the libellants caused the vessel to be seized at Toronto, Ont., by virtue of a warrant issued by the Maritime Court of Ontario, upon a petition filed by the libellants for the same cause of action for which their libel was filed, in this Court; that in August, 1878, one Michael Gallagher intervened with a claim for wages as watchman and ship-keeper from December 1, 1877, to June 27, 1878; that about the same time one William McAllister also intervened with a claim for wages as mate from April 4 to May 4, 1877, to the amount of \$52.50; that the two last men-

tioned claims were consolidated, and on September 25, 1878, the vessel was condemned and ordered sold to satisfy these claims; that upon such sale she was purchased by the claimant for \$1,000, and she has since been registered at the custom-house in Toronto; that notice of the pendency of these proceedings, and of the sale, was given by publication, pursuant to the practice of the Court, and by the arrest and detention of the vessel; that the Maritime Court of Ontario had jurisdiction of these causes and authority to direct the sale, and that claimant became the owner of the vessel, discharged of all liens.

It appeared from the proceedings in the Canadian case that a demurrer was interposed to libellant's petition upon the ground that the Maritime Court had no jurisdiction to enforce the claim for necessities supplied to an American vessel in a port in the United States.

This demurrer was sustained by the Court, and libellant's petition dismissed. The vessel was sold, as above stated, by virtue of a decree rendered upon the consolidated claims of Gallagher and McAllister.

The question in this case was whether this sale was sufficient to divest the libellants of their claim for necessities.

Moore and Canfield, for libellants.

Wisner and Speed, for the claimant.

BROWN, J. The Maritime Court of Ontario was created by an Act of Parliament of the Dominion of Canada, approved April 28, 1877, the object of which was to "establish a court of maritime jurisdiction in the Province of Ontario." The first section vested in the Court, in very brief language, "Such jurisdiction as is exercised by any existing British vice-admiralty Court." To ascertain what jurisdiction is exercised by the vice-admiralty Courts of Great Britain, we are referred to an Act of the Imperial Parliament known as "The Vice Admiralty Court's Act, 1863," which is made applicable to all existing as well as to future Vice-Admiralty Courts. The 10th section of this Act declares that these Courts shall have cognizance of what are generally known as maritime cases, viz.: Seamen's and master's wages, pilotage; salvage, towage, damage, bottomry bonds, payments of mortgages from the proceeds of sale, possessory suits, and amongst others (subdivision 10), "claims for necessities supplied in