

poses of their business. And it is claimed to be unconstitutional in other particulars, wherein it is too comprehensive, as limiting the use of the drug, as a medicine, for ailments not arising from the use of opium. It is claimed that opium, like spirits, in cases of *delirium tremens*, is often the only medicine that will save the life of a party suffering from excessive prior use. But the point already determined is sufficient for the purposes of this case.

The party being in custody in violation of the constitution of the United States, this court has jurisdiction to discharge him on *habeas corpus*, notwithstanding the fact that he is held by authority of a judgment of a state court, (Rev. St. § 753; *Ex parte Royall*, 117 U. S. 241; S. C. 6 Sup. Ct. Rep. 734;) and the case is one in which this court, in the exercise of a sound discretion, should discharge the petitioner, within the principles announced in that case.

There are no reasons peculiar to the case that would justify putting the party to the expensive and tedious process of pursuing his remedy through all the state courts; and, if necessary, by appeal to the supreme court at Washington, 3,000 miles away. To require this in a case that seems clear would be equivalent to a total denial of justice. It would be far better for the petitioner to suffer the punishment imposed, and serve out his sentence, than to undertake so onerous a task for the vindication of his rights.

Let the petitioner be discharged.

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### THE HURON.<sup>1</sup>

(District Court, D. Massachusetts. November 20, 1886.)

#### MARITIME LIEN—SUPPLIES—DEPARTURE FROM PORT—FOREIGN PORT—PUB. ST. MASS. CH. 192, § 15.

To sustain a lien for supplies furnished a vessel while in her home port, it is incumbent on the material-man, by Pub. St. Mass. c. 192, § 15, to file his claim within four days after the departure of the vessel from the port at which she was when the debt was contracted. A cruise from Boston to Newport, though made in order to attend a regatta, is "a departure," within the meaning of the act. As Newport was a foreign port, the libellant is entitled, under the general admiralty law, to a lien for such of the supplies as were furnished after her arrival at that port, notwithstanding the fact that the goods were ordered from Newport at Boston, and were sent to the yacht at Newport by express.

In Admiralty. Libel *in rem* for supplies furnished partly in home and partly in a foreign port.

C. F. Loring, for libellants.

R. Stone, for claimant.

<sup>1</sup> Reported by Theodore M. Etting, Esq., of the Philadelphia bar.

NELSON, J. This was a libel against the yacht-sloop *Huron*, owned by the late William Gray, for supplies furnished in the month of August last. Some of these supplies were furnished by the yacht in Boston, which was her home port, and a part were furnished after the yacht went to Newport on a pleasure excursion, to attend a regatta on August 6th. The statement of the claim required by the Massachusetts Public Statutes, c. 192, § 15, was not filed in the city clerk's office in Boston until more than four days after the yacht left for Newport. It was contended by the claimant that there was no lien upon the yacht for the supplies furnished. The court disallowed that part of the claim, which was for supplies furnished while the yacht was in Boston. It was decided, as to this part, that going to Newport on a pleasure excursion was a departure from the port, within the meaning of the statute; which provides that the lien is dissolved unless a statement of the claim is filed at the clerk's office within four days after the departure of the vessel from the port at which she was when the debt was contracted. *The Helen Brown*, 28 Fed. Rep. 111. As to the part of the supplies which were furnished by the libelants while the yacht was at Newport, the court held that while at Newport she was in a foreign port, and, under the general admiralty law, the libelants could claim a lien, although the goods were ordered from Newport at Boston, and were sent to the yacht at Newport by express. There was accordingly a decree for the libelants for that part of the supplies furnished in the sum of \$93.94, and costs.

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ARNOLD and others v. NATIONAL S. S. Co.<sup>1</sup>

(*District Court, S. D. New York. November 24, 1886.*)

1. CARRIER—DISCHARGE OF CARGO—CUSTOMARY WHARF—DISCHARGE ELSEWHERE—LIABILITY.

The customary discharge of goods by a carrier at its own wharf, so long as no good reason for a discharge elsewhere exists, though not without occasional discharges for cause at a different wharf, imports no such strict contract obligation to discharge at its own wharf as is violated by a discharge elsewhere, for good reasons,—such as that the usual dock was full.

2. SAME—STATEMENT.

On the thirty-first of January, 1883, the dock of the National Steam-ship Company being occupied by other vessels, the steam-ship *Egypt*, of that line, discharged her cargo at the Inman dock, three blocks distant, where it was destroyed by fire. Libelant alleged that the loss occurred through the violation on the part of the steam-ship company of its custom to discharge at its own wharf. The proof showed that while it was the practice of the National line to discharge at their own dock, it was no invariable custom. The bills of lading provided simply for a delivery at the port of New York. The Inman Company's pier was as good and safe from fire as that of the National line, and nothing was shown in regard to the cause of the fire that especially connected it with the unloading at the Inman pier. *Held*, that the National Company was not liable for the loss on the ground of violation of custom.

<sup>1</sup>Reported by Edward G. Benedict, Esq., of the New York bar.