country, and the power to make such amendments is coextensive with that law. It is not confined to the boundaries or class of subjects which limit and characterize the power to regulate commerce; but, in maritime matters, it extends to all matters and places to which the maritime law extends."[867]

The law administered by federal courts in admiralty is therefore an amalgam of the general maritime law insofar as it is acceptable to the courts, modifications of that law by congressional amendment, the common law of torts and contracts as modified to the extent constitutionally possible by state legislation, and international prize law. This body of law is at all times subject to modification by the paramount authority of Congress acting in pursuance of its powers under the Admiralty and Maritime Clause and the Necessary and Proper Clause and, no doubt, the Commerce Clause, now that the Court's interpretation of that clause has become so expansive. Of this power there has been uniform agreement among the Justices of the Court.[868]

Admiralty and Maritime Cases.—Admiralty and maritime jurisdiction comprises two types of cases: (1) those involving acts com-

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[867] *In re* Garnett, 141 U.S. 1, 12 (1891). *See also* Southern Pacific Co. v. Jensen, 244 U.S. 205, 215 (1917); Knickerbocker Ice Co. v. Stewart, 253 U.S. 149, 160 (1920); Crowell v. Benson, 285 U.S. 22, 55 (1932). The Jones Act, under which injured seamen may maintain an action at law for damages, has been reviewed as an exercise of legislative power deducible from the Admiralty Clause. Panama R.R. v. Johnson, 264 U.S. 375, 386, 388, 391 (1924); Romero v. International Terminal Operating Co., 358 U.S. 354, 360–361 (1959). On the limits to the congressional power, *see* Panama R.R. v. Johnson, 264 U.S. at 386–87; Detroit Trust Co. v. The Thomas Barlum, 293 U.S. 21, 43–44 (1934).

[868] Thus, Justice McReynolds' assertion of the paramountcy of congressional power in Southern Pacific Co. v. Jensen, 244 U.S. 205, 215 (1917), was not disputed by the four dissenters in that case and is confirmed in subsequent cases critical of *Jensen* which in effect invite congressional modification of maritime law. *E.g.*, Davis v. Department of Labor and Industries, 317 U.S. 249 (1942). The nature of maritime law has excited some relevant controversy. In American Ins. Co. v. Canter, 26 U.S. (1 Pet.) 516, 545 (1828), Chief Justice Marshall declared that admiralty cases do not "arise under the Constitution or laws of the United States" but "are as old as navigation itself; and the law, admiralty and maritime as it has existed for ages, is applied by our Courts to the cases as they arise." In Romero v. International Terminal Operating Co., 358 U.S. 354 (1959), the plaintiff sought a jury trial in federal court on a seaman's suit for personal injury on an admiralty claim, contending that cases arising under the general maritime law are "civil actions" that arise "under the Constitution, laws, or treaties of the United States." 28 U.S.C. § 1331. Five Justices in an opinion by Justice Frankfurter disagreed. Maritime cases do not arise under the Constitution or laws of the United States for federal question purposes and must, absent diversity, be instituted in admiralty where there is no jury trial. The dissenting four, Justice Brennan for himself and Chief Justice Warren and Justices Black and Douglas, contended that maritime law, although originally derived from international sources, is operative within the United States only by virtue of having been accepted and adopted pursuant to Article III, and accordingly judicially originated rules formulated under authority derived from that Article are "laws" of the United States to the same extent as those enacted by Congress.