

Sec. 2—Judicial Power and Jurisdiction

Cl. 1—Cases and Controversies

tion to navigable waters which form some link in an interstate or international waterway or some link in commerce,⁹⁰⁷ but these date from the time when it was thought the commerce power furnished the support for congressional legislation in this field.

Admiralty and Federalism.—Extension of admiralty and maritime jurisdiction to navigable waters within a state does not, however, of its own force include general or political powers of government. Thus, in the absence of legislation by Congress, the states through their courts may punish offenses upon their navigable waters and upon the sea within one marine league of the shore.⁹⁰⁸

Determination of the boundaries of admiralty jurisdiction is a judicial function, and “no State law can enlarge it, nor can an act of Congress or a rule of court make it broader than the judicial power may determine to be its true limits.”⁹⁰⁹ But, as with other jurisdictions of the federal courts, admiralty jurisdiction can only be exercised under acts of Congress vesting it in federal courts.⁹¹⁰

The boundaries of federal and state competence, both legislative and judicial, in this area remain imprecise, and federal judicial determinations have notably failed to supply definiteness. During the last century, the Supreme Court generally permitted two overlapping systems of law to coexist in an uneasy relationship. The federal courts in admiralty applied the general maritime law,⁹¹¹ supplemented in some instances by state law which created and defined certain causes of action.⁹¹² Because the Judiciary Act of 1789 saved to suitors common-law remedies, persons suing in state courts or in federal courts in diversity of citizenship actions could look to common-law and statutory doctrines for relief in maritime-related

tion. *Ex parte Boyer*, 109 U.S. 629 (1884); *The Robert W. Parsons*, 191 U.S. 17 (1903). In *United States v. Appalachian Power Co.*, 311 U.S. 377 (1940), it was made clear that maritime jurisdiction extends to include waterways which by reasonable improvement can be made navigable. “It has long been settled that the admiralty and maritime jurisdiction of the United States includes all navigable waters within the country.” *Southern S.S. Co. v. NLRB*, 316 U.S. 31, 41 (1942).

⁹⁰⁷ *E.g.*, *The Daniel Ball*, 77 U.S. (10 Wall.) 557, 563 (1870); *The Montello*, 87 U.S. (20 Wall.) 430, 441–42 (1874).

⁹⁰⁸ *United States v. Bevans*, 16 U.S. (3 Wheat.) 336 (1818); *Manchester v. Massachusetts*, 139 U.S. 240 (1891).

⁹⁰⁹ *The Steamer St. Lawrence*, 66 U.S. (1 Bl.) 522, 527 (1862).

⁹¹⁰ *Janney v. Columbia Ins. Co.*, 23 U.S. (10 Wheat.) 411, 418 (1825); *The Lottawanna*, 88 U.S. (21 Wall.) 558, 576 (1875).

⁹¹¹ *E.g.*, *New Jersey Steam Navigation Co. v. Merchants’ Bank of Boston*, 47 U.S. (6 How.) 344 (1848); *The Steamboat New York v. Rea*, 59 U.S. (18 How.) 223 (1856); *The China*, 74 U.S. (7 Wall.) 53 (1868); *Ex parte McNiel*, 80 U.S. (13 Wall.) 236 (1872); *La Bourgogne*, 210 U.S. 95 (1908).

⁹¹² *The General Smith*, 17 U.S. (4 Wheat.) 438 (1819); *The Lottawanna*, 88 U.S. (21 Wall.) 558 (1875) (enforcing state laws giving suppliers and repairmen liens on ships supplied and repaired). Another example concerns state-created wrongful death actions. *The Hamilton*, 207 U.S. 398 (1907).