

Sec. 2—Judicial Power and Jurisdiction

Cl. 1—Cases and Controversies

to admiralty courts,⁸⁹⁸ such actions in state courts have been sustained in cases of forfeiture arising out of violations of state law.⁸⁹⁹

Perhaps the most significant admiralty court difference in procedure from civil courts is the absence of a jury trial in admiralty actions, with the admiralty judge trying issues of fact as well as of law.⁹⁰⁰ Indeed, the absence of a jury in admiralty proceedings appears to have been one of the principal reasons why the English government vested a broad admiralty jurisdiction in the colonial vice-admiralty courts, since they provided a forum where the English authorities could enforce the Navigation Laws without “the obstinate resistance of American juries.”⁹⁰¹

Territorial Extent of Admiralty and Maritime Jurisdiction.—

Although he was a vigorous exponent of the expansion of admiralty jurisdiction, Justice Story for the Court in *The Steamboat Thomas Jefferson*⁹⁰² adopted a restrictive English rule confining admiralty jurisdiction to the high seas and upon rivers as far as the ebb and flow of the tide extended.⁹⁰³ The demands of commerce on western waters led Congress to enact a statute extending admiralty jurisdiction over the Great Lakes and connecting waters,⁹⁰⁴ and in *The Genessee Chief v. Fitzhugh*⁹⁰⁵ Chief Justice Taney overruled *The Thomas Jefferson* and dropped the tidal ebb and flow requirement. This ruling laid the basis for subsequent judicial extension of jurisdiction over all waters, salt or fresh, tidal or not, which are navigable in fact.⁹⁰⁶ Some of the older cases contain language limiting jurisdic-

⁸⁹⁸ *The Moses Taylor*, 71 U.S. (4 Wall.) 411, 431 (1867).

⁸⁹⁹ *C. J. Henry Co. v. Moore*, 318 U.S. 133 (1943).

⁹⁰⁰ *The Vengeance*, 3 U.S. (3 Dall.) 297 (1796); *The Schooner Sally*, 6 U.S. (2 Cr.) 406 (1805); *The Schooner Betsy*, 8 U.S. (4 Cr.) 443 (1808); *The Whelan*, 11 U.S. (7 Cr.) 112 (1812); *The Samuel*, 14 U.S. (1 Wheat.) 9 (1816). If diversity of citizenship and the requisite jurisdictional amounts are present, a suitor may sue on the “law side” of the federal court and obtain a jury. *Romero v. International Terminal Operating Co.*, 358 U.S. 354, 362–363 (1959). Jones Act claims, 41 Stat. 1007 (1920), 46 U.S.C. § 688, may be brought on the “law side” with a jury, *Panama R.R. Co. v. Johnson*, 264 U.S. 375 (1924), and other admiralty claims joined with a Jones Act claim may be submitted to a jury. *Romero*, *supra*; *Fitzgerald v. United States Lines Co.*, 374 U.S. 16 (1963). There is no constitutional barrier to congressional provision of jury trials in admiralty. *Genessee Chief v. Fitzhugh*, 53 U.S. (12 How.) 443 (1851); *Fitzgerald v. United States Lines Co.*, 374 U.S. 16, 20 (1963).

⁹⁰¹ *C. J. Henry Co. v. Moore*, 318 U.S. 133, 141 (1943).

⁹⁰² 23 U.S. (10 Wheat.) 428 (1825). On the political background of this decision, see 1 C. Warren, *supra* at 633–35.

⁹⁰³ The tidal ebb and flow limitation was strained in some of its applications. *Peyroux v. Howard*, 32 U.S. (7 Pet.) 324 (1833); *Waring v. Clarke*, 46 U.S. (5 How.) 441 (1847).

⁹⁰⁴ 5 Stat. 726 (1845).

⁹⁰⁵ 53 U.S. (12 How.) 443 (1851).

⁹⁰⁶ Some of the early cases include *The Magnolia*, 61 U.S. (20 How.) 296 (1857); *The Eagle*, 75 U.S. (8 Wall.) 15 (1868); *The Daniel Ball*, 77 U.S. (10 Wall.) 557 (1871). The fact that the body of water is artificial presents no barrier to admiralty jurisdic-