

## Sec. 2—Judicial Power and Jurisdiction

## Cl. 1—Cases and Controversies

mitted on the high seas or other navigable waters, and (2) those involving contracts and transactions connected with shipping employed on the seas or navigable waters. In the first category, which includes prize cases and torts, injuries, and crimes committed on the high seas, jurisdiction is determined by the locality of the act, while in the second category subject matter is the primary determinative factor.<sup>869</sup> Specifically, contract cases include suits by seamen for wages,<sup>870</sup> cases arising out of marine insurance policies,<sup>871</sup> actions for towage<sup>872</sup> or pilotage<sup>873</sup> charges, actions on bottomry or respondentia bonds,<sup>874</sup> actions for repairs on a vessel already used in navigation,<sup>875</sup> contracts of affreightment,<sup>876</sup> compensation for tem-

<sup>869</sup> *DeLovio v. Boit*, 7 Fed. Cas. 418, 444 (No. 3776) (C.C.D. Mass. 1815) (Justice Story); *Waring v. Clarke*, 46 U.S. (5 How.) 441 (1847).

<sup>870</sup> *Sheppard v. Taylor*, 30 U.S. (5 Pet.) 675, 710 (1831). A seaman employed by the government making a claim for wages cannot proceed in admiralty but must bring his action under the Tucker Act in the Court of Claims or in the district court if his claim does not exceed \$10,000. *Amell v. United States*, 384 U.S. 158 (1966). In *Kossick v. United Fruit Co.*, 365 U.S. 731 (1961), an oral agreement between a seaman and a shipowner whereby the latter in consideration of the seaman's forbearance to press his maritime right to maintenance and cure promised to assume the consequences of improper treatment of the seaman at a Public Health Service Hospital was held to be a maritime contract. See also *Archawski v. Hanioti*, 350 U.S. 532 (1956).

<sup>871</sup> *Insurance Co. v. Dunham*, 78 U.S. (11 Wall.) 1, 31 (1871); *Wilburn Boat Co. v. Fireman's Fund Ins. Co.*, 348 U.S. 310 (1955). Whether admiralty jurisdiction exists if the vessel is not engaged in navigation or commerce when the insurance claim arises is open to question. *Jeffcott v. Aetna Ins. Co.*, 129 F.2d 582 (2d Cir. 1942), *cert. denied*, 317 U.S. 663 (1942). Contracts and agreements to procure marine insurance are outside the admiralty jurisdiction. *Compagnie Francaise De Navigation A Vapeur v. Bonnasse*, 19 F.2d 777 (2d Cir. 1927).

<sup>872</sup> *Knapp, Stout & Co. v. McCaffrey*, 177 U.S. 638 (1900). For recent Court difficulties with exculpatory features of such contracts, see *Bisso v. Inland Waterways Corp.*, 349 U.S. 85 (1955); *Boston Metals Co. v. The Winding Gulf*, 349 U.S. 122 (1955); *United States v. Nielson*, 349 U.S. 129 (1955); *Southwestern Sugar & Molasses Co. v. River Terminals Corp.*, 360 U.S. 411 (1959); *Dixilyn Drilling Corp. v. Crescent Towage & Salvage Co.*, 372 U.S. 697 (1963).

<sup>873</sup> *Atlee v. Packet Co.*, 88 U.S. (21 Wall.) 389 (1875); *Ex parte McNiel*, 80 U.S. (13 Wall.) 236 (1872). See also *Sun Oil v. Dalzell Towing Co.*, 287 U.S. 291 (1932).

<sup>874</sup> *The Grapeshot*, 76 U.S. (9 Wall.) 129 (1870); *O'Brien v. Miller*, 168 U.S. 287 (1897); *The Aurora*, 14 U.S. (1 Wheat.) 94 (1816); *Delaware Mut. Safety Ins. Co. v. Gossler*, 96 U.S. 645 (1877). But ordinary mortgages even though the securing property is a vessel, its gear, or cargo are not considered maritime contracts. *Bogart v. The Steamboat John Jay*, 58 U.S. (17 How.) 399 (1854); *Detroit Trust Co. v. The Thomas Barlum*, 293 U.S. 21, 32 (1934).

<sup>875</sup> *New Bedford Dry Dock Co. v. Purdy*, 258 U.S. 96 (1922); *The General Smith*, 17 U.S. (4 Wheat.) 438 (1819). There is admiralty jurisdiction even though the repairs are not to be made in navigable waters but, perhaps, in dry dock. *North Pacific S.S. Co. v. Hall Brothers Marine R. & S. Co.*, 249 U.S. 119 (1919). But contracts and agreements pertaining to the original construction of vessels are not within admiralty jurisdiction. *Peoples Ferry Co. v. Joseph Beers*, 61 U.S. (20 How.) 393 (1858); *North Pacific S.S. Co.*, 249 U.S. at 127.

<sup>876</sup> *New Jersey Steam Navigation Co. v. Merchants' Bank of Boston*, 47 U.S. (6 How.) 344 (1848).