



Federal Admiralty and Maritime Jurisdiction

Part 3: Territorial Scope

September 20, 2022

This Legal Sidebar post is the third in a five-part series that discusses the bases and scope of U.S. admiralty and maritime jurisdiction. Last year, a [supply-chain bottleneck](#) arose at the nation’s ports with as many as 101 container ships waiting for berths at the nation’s Los Angeles and Long Beach ports in the weeks before Christmas. These [delays](#) added to the time it took to deliver the goods to market and increased the costs of transporting them. Claims for breaches of maritime contracts related to shipping delays may fall within U.S. admiralty and maritime jurisdiction. As a result, Congress may be interested in how this area of law operates. Additional information on this topic can be found at the [Constitution Annotated: Analysis and Interpretation of the U.S. Constitution](#).

Since the Founding, the Supreme Court has grappled with the scope of federal courts’ “admiralty and maritime” jurisdiction under Article III of the Constitution and federal statutes. The [Supreme Court](#) has held that “all suits involving maritime claims, regardless of the remedy sought, are cases of admiralty and maritime jurisdiction within the meaning of Article III whether they are asserted in the federal courts or, under the saving clause, in the state courts.” Generally, the Court’s cases analyzing admiralty jurisdiction have addressed when particular claims qualify as “maritime.” Such cases have examined (1) the territorial extent of such jurisdiction; (2) its subject matter scope; and (3) the availability of concurrent state court jurisdiction over maritime claims.

The [Supreme Court](#) has held that neither Congress, nor the states, nor U.S. courts can enlarge admiralty jurisdiction beyond its constitutional limits. Congress has successfully enlarged the Judiciary Act’s initial *statutory* grant of admiralty jurisdiction to the lower federal courts on several occasions, which suggests that it has not granted the courts admiralty jurisdiction to the full extent that the Constitution may allow. However, the precise boundaries that the Constitution establishes for this jurisdiction remain unclear. The [Court](#) has suggested that various historical and policy-based considerations may delineate the jurisdiction’s boundaries, including the types of maritime cases that state admiralty courts could adjudicate at the time of the Constitution’s adoption; the Framers’ reasons for conferring admiralty jurisdiction on the federal judiciary (for example, to establish more uniformity in admiralty proceedings); and Congress’s practical need to address new “maritime concerns.”

The extent to which Congress may *reduce* the scope of admiralty jurisdiction is also unclear. In one case, the [Supreme Court](#) suggested that “grave” constitutional questions would arise if the Court interpreted the

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[Merchant Marine Act of 1920](#) (known as the “Jones Act”) to prohibit federal courts from exercising admiralty jurisdiction over a seaman’s personal injury claims against his employer while allowing such suits at common law. The Court avoided ruling on whether the statute would encroach on the Constitution’s grant of admiralty jurisdiction by construing the Jones Act to allow the seaman to sue either on the “admiralty side” of a federal court with trial by judge or the “law side” of the court with a right to a jury trial. The Court’s decision suggests that the Constitution may impose some limits on Congress’s ability to withdraw certain maritime-related claims from admiralty jurisdiction, at least when those claims remain cognizable in common law courts.

With respect to admiralty jurisdiction’s territorial scope, [courts](#) generally consider the location in which a tort or crime occurs to be a major factor when determining whether the tort or crime falls within admiralty jurisdiction. Early in U.S. history, the [Supreme Court](#) interpreted the territorial extent of federal admiralty jurisdiction in accordance with the rules of the English admiralty courts. As a result, the Court construed that jurisdiction narrowly, limiting it to causes of action that arose on the high seas and rivers subject to the ebb and flow of the tide.

The law changed significantly in the mid-19th century when the [Court](#) held that the English rules on jurisdiction at the time of the U.S. Constitution’s adoption could not limit the territorial extent of federal admiralty jurisdiction. In *The Propeller Genesee Chief v. Fitzhugh*, the Court reviewed a federal law that extended admiralty jurisdiction over certain claims that arose on the Great Lakes and connecting waters. The Court upheld the law, determining that the Constitution’s initial grant of admiralty jurisdiction embraced such waters, even if they were beyond the ebb and flow of the tide. A couple of decades later, the [Court](#) specifically held that admiralty jurisdiction, as conferred by the Constitution and federal statutes, extended to claims arising on all navigable waters of the United States.

Thus, as currently understood, [admiralty jurisdiction](#) extends to all public waters that are navigable in fact, regardless of whether they are saltwater or freshwater or subject to the ebb and flow of the tide.

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