

*The STEAMBOAT THOMAS JEFFERSON : JOHNSON and others, Claimants.

Admiralty jurisdiction.

The district court has not jurisdiction of a suit for wages earned on a voyage in a steam-vessel, from Shippingport, in the state of Kentucky, upon the river Missouri, and back again to the port of departure, as a court of admiralty and maritime jurisdiction.

The admiralty has no jurisdiction over contracts for the hire of seamen, except in cases where the service is substantially performed upon the sea, or upon waters within the ebb and flow of the tide.

But the jurisdiction exists, although the commencement or termination of the voyage is at some place beyond the reach of the tide ; it is sufficient, if the service be essentially a maritime service ?¹

Quære ? Whether, under the power to regulate commerce among the several states, congress may not extend the remedy, by the summary process of the admiralty, to the case of voyages on the western waters ?²

However this may be, the act of 1790, c. 29, for the government and regulation of seamen in the merchant service, confines the remedies in the district courts to such cases as ordinarily belong to the admiralty jurisdiction.

APPEAL from the Circuit Court of Kentucky.

March 18th, 1825. STORY, Justice, delivered the opinion of the court.— This is a suit brought in the district court of Kentucky for subtraction of wages. The libel claims wages earned on a voyage from Shippingport, in that state, up the river Missouri, and back again to the port of departure ; *429] and the question is, whether this case, as stated in the *libel, is of admiralty and maritime jurisdiction, or otherwise within the jurisdiction of the district court? The court below dismissed the libel for want of jurisdiction, and the libellants have appealed from that decree to this court.

In the great struggles between the courts of common law and the admiralty, the latter never attempted to assert any jurisdiction, except over maritime contracts. In respect to contracts for the hire of seamen, the admiralty never pretended to claim, nor could it rightfully exercise any jurisdiction, except in cases where the service was substantially performed, or to be performed, upon the sea, or upon waters within the ebb and flow of the tide. This is the prescribed limit, which it was not at liberty to transcend. We say, the service was to be substantially performed on the sea, or on tide-water, because there is no doubt that the jurisdiction exists, although the commencement or termination of the voyage may happen to be at some place beyond the reach of the tide. The material consideration is, whether the service is essentially a maritime service. In the present case, the voyage, not only in its commencement and termination, but in all its intermediate progress, was several hundreds of miles above the ebb and flow of the tide ; and in no just sense, can the wages be considered as earned in a maritime employment.

¹ The Robert Morris, 1 Wall. Jr. C. C. 33 ; The Salisbury, Olcott 71 ; The Sarah June, 1 Low. 203. See McCormick v. Ives, 1 Abb. U. S. 529.

² It is now settled, that the admiralty jurisdiction extends to the lakes and navigable waters

of the United States, without regard to the ebb and flow of the tide. The Genesee Chief, 12 How. 443 ; The Magnolia, 20 Id. 296 ; The Hine, 4 Wall. 555 ; The Belfast, 7 Id. 624 ; The Eagle, 8 Id. 15 ; Insurance Co. v. Dunham, 11 Id. 1 ; Schoonmaker v. Gilmore, 102 U. S. 118.

The Santa Maria.

Some reliance has been placed in argument upon that clause of the judiciary act of 1789, ch. 20, § 9, which includes all seizures made on waters navigable from the sea by vessels of ten *or more tons burden (of which description the waters in this case are) within the admiralty [*430 jurisdiction. But this is a statutable provision, and limited to the cases there stated. To make the argument available, it should be shown, that some act of congress had extended the right to sue in courts having admiralty jurisdiction, to cases of voyages of this nature. We have, for this purpose, examined the act of congress for the government and regulation of seamen in the merchant service (Act of 1790, ch. 29), and though its language is somewhat general, we think that its strict interpretation confines the remedy in the admiralty to such cases as ordinarily belong to its cognisance, as maritime contracts for wages. It merely recognises the existing, and does not intend to confer any new, jurisdiction. Whether, under the power to regulate commerce between the states, congress may not extend the remedy, by the summary process of the admiralty, to the case of voyages on the western waters, it is unnecessary for us to consider. If the public inconvenience, from the want of a process of an analogous nature, shall be extensively felt, the attention of the legislature will doubtless be drawn to the subject. But we have now only to declare, that the present suit is not maintainable as a cause of admiralty and maritime jurisdiction, upon acknowledged principles of law.

The decree of the circuit court, dismissing the libel for want of jurisdiction, is, therefore, affirmed.

Decree accordingly.

*The SANTA MARIA : The Spanish Consul, Libellant. [*431

Prize.—Second appeal.

Upon an appeal from a mandate to carry into effect a former decree of the court, nothing is before the court but the proceedings subsequent to the mandate.¹

But the original proceedings are always before the court, so far as is necessary to determine any new points in controversy between the parties, which are not terminated by the original decree.

After a general decree of restitution, in this court, the captors, or purchasers under them, cannot set up in the court below new claims for equitable deductions, meliorations and charges, even if such claims might have been allowed, had they been asserted before the original decree.

Nor can the claimants, or original owners, in such a case, set up a claim for interest, upon the stipulation, taken in the usual form, for the appraised value of the goods, interest not being mentioned in the stipulation itself.

Nor can interest be decreed against the captors personally, by way of damages for the detention and delay, no such claim having been set up, upon the original hearing in the court below, or upon the original appeal to this court.

The case of *Rose v. Himely*, 5 Cranch 313, reviewed, explained and confirmed.

Upon a mandate to the circuit court, to carry into effect a general decree of restitution by this court, where the property has been delivered upon a stipulation for the appraised value, and the duties paid upon it by the party to whom it is delivered, the amount of the duties is to be deducted from the appraised value.

APPEAL from the Circuit Court of Maryland. This cause was formerly

¹ *Roberts v. Cooper*, 20 How. 467.