

234 U. S.

Statement of the Case.

in navigable waters, by one who has undertaken a maritime service, against one engaged in the performance of that service, is not embraced within the constitutional grant and the jurisdictional act, would be to establish a limitation wholly without warrant.

The remaining question relates to the finding of negligence. It is urged that the neglect was that of a fellow-servant and hence that the petitioner was not liable. Both courts below, however, concurred in the finding that the petitioner omitted to use proper diligence to provide a safe place of work. *Baltimore & Ohio R. R. Co. v. Baugh*, 149 U. S. 368, 386. As the question belongs to a class which under the distribution of judicial power is determinable by the Circuit Court of Appeals in last resort, we shall not undertake to discuss it at length or to restate the evidence. *Chicago Junction Rwy. Co. v. King*, 222 U. S. 222, 224; *Chicago, R. I. & Pac. Rwy. Co. v. Brown*, 229 U. S. 317, 320; *Grand Trunk Rwy. Co. v. Lindsay*, 233 U. S. 42, 50. It is sufficient to say that we are satisfied from an examination of the record that the ruling was justified.

Affirmed.

ATLANTIC TRANSPORT COMPANY OF WEST VIRGINIA *v.* STATE OF MARYLAND TO THE USE OF SZCZESEK.

CERTIORARI TO THE CIRCUIT COURT OF APPEALS FOR THE FOURTH CIRCUIT.

No. 216. Argued January 29, 30, 1914.—Decided May 25, 1914.

Decided on the authority of *Atlantic Transport Company v. Imbroke*, ante, p. 54.

193 Fed. Rep. 1019, affirmed.

THE facts are stated in the opinion.

Mr. Edward Duffy, with whom *Mr. Nicholas P. Bond* and *Mr. Ralph Robinson* were on the brief, for petitioner.

Mr. W. H. Price, Jr., and *Mr. John E. Semmes, Jr.*, with whom *Mr. John E. Semmes*, *Mr. Jesse N. Bowen* and *Mr. Matthew Gault* were on the brief, for respondent.

MR. JUSTICE HUGHES delivered the opinion of the court.

This is a libel filed on behalf of the widow and infant children of Martin Szczesek to recover damages for injuries resulting in his death. Szczesek was a stevedore in the employ of the Atlantic Transport Company, the petitioner, and was engaged in loading the ship Pretoria. The District Court allowed a recovery against the petitioner (190 Fed. Rep. 240) which the Circuit Court of Appeals affirmed. 193 Fed. Rep. 1019.

The questions presented are the same as those which were considered in *Atlantic Transport Company v. Imbrovek*, ante, p. 52, decided this day and, for the reasons stated in the opinion in that case, the decree is affirmed.

Affirmed.

SCHMIDT *v.* BANK OF COMMERCE.

ERROR TO THE SUPREME COURT OF THE TERRITORY OF NEW MEXICO.

No. 281. Argued March 19, 1914.—Decided May 25, 1914.

This court accepts the rulings of the territorial courts on local questions of pleading and practice. *Santa Fe Ry. Co. v. Friday*, 232 U. S. 694. Where some of the signatures of defendant makers had been obtained by means of fraudulent representations by the plaintiff holder of the paper, the whole transaction is vitiated even as to those makers