FLINK *v.* PALADINI ET AL.

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

No. 299. Submitted February 21, 1929.—Decided March 5, 1929.

1. The words of the Acts of Congress limiting the liability of shipowners to the value of the vessel and pending freight, and of part owners to their proportional share, must be taken in a broad and popular sense in order not to defeat the policy of the acts to encourage investment in shipping. P. 62.
2. Therefore, where the title to the vessel is in a corporation whose stockholders are by state law made proportionately liable for obligations of the corporation, the stockholders may limit liability as "part owners." P. 62.
3. The individual liability assumed under Art. XII, § 3, of the California Contitution, and § 322 of the Civil Code, by becoming a stockholder of a California ship-owning corporation, though voluntary and contractual, is to be construed as subject to the limited liability acts of Congress. P. 63.

26 F. (2d) 21, affirmed.

CERTIORARI, 278 U. S. 589, to a decree of the Circuit Court of Appeals reversing an order of the District Court in a proceeding to limit liability for personal injuries suffered by the present petitioner while serving aboard ship at sea. The reversed order refused a stay of actions in state and federal courts, which the petitioner had brought against the respondents to enforce their liability under the state law as stockholders of the corporation owning the ship.

Messrs. H. W. Hutton and *R. T. Lynch* submitted for petitioner.

The limited liability is for shipowners. The court has no jurisdiction to limit the liability of persons not within the statute. *The Irving F. Ross,* 8 F. (2d) 313; *In re Reichert Towing Line,* 251 Fed. 214.

The law must be taken and construed as Congress made it, and if any amendments or revisions appear desirable, they can be made by Congress.

The corporation is the sole owner of the legal and equitable title to its property. This rule has even been applied in the extreme case where all of the stock in the corporation is held by one person, the distinction being very clearly pointed out in *Solas* v. *United States,* 234 Fed. 842.

Ships owned by domestic corporations were held in England to be free from seizure, during the late war, when all of the stockholders were alien enemies. *Continental Tyre & Rubber Co.* v. *Daimler Co.,* 1915, 1 K. B. 893; *The Queen* v. *Arnaud,* 15 L. J. Q. B. N. S. 50. See also *Hamburg-American Co.* v. *United States,* 277 U. S. 138.

The term "equitable owner" in its ordinary legal significance means that the asserted owner has an estate in the property which is recognized as a right of ownership by a court of equity, i. e., that he is a *cestui que trust* of an express trust, the owner of an equity of redemption, vendee under a contract of sale of real estate or in some similar equitable position. A stockholder in a corporation has, however, no equitable ownership, title, or interest in the corporate property in the sense in which the term "equitable ownership" is thus used. *United States* v. *Eisner,* 252 U. S. 189.

An aid to the construction of the Acts is found in the circumstance that Congress in R. S. 4286 (U. S. C., Tit. 46, § 186), found it necessary specifically to include charterers within the term "owners." A charterer could more easily be construed to be an owner of a vessel than a stockholder. A charterer has a limited legal ownership in the vessel in the nature of a leasehold interest, while a stockholder has no legal or equitable rights of ownership in the vessel whatsoever, upon which a qualified ownership could be predicated.

Again, § 4286, R. S., including charterers as owners, is expressly limited in its application to such charterers as man, victual, and navigate the vessel at their own expense; i. e., a bareboat charter. The intent appears to be to include as owners only those having actual control of the vessel and power of direction and control over its officers and crew. This does not include stockholders of a corporate owner.

The corporation is the " owner " for the purpose of the Limited Liability Acts. The stockholders have the status of deferred creditors of the corporation.

Respondents make much of the policy of Congress of encouraging investments in ships by relieving shipowners from the obligation to pay their debts in full in certain cases. The reasons which presumably led Congress to this determination are without force as applied to the case at bar. The vessels of Attilio Paladini, Inc., are immune from foreign ship, and from railroad, competition. The protection of the Limited Liability Acts is wholly unnecessary in such case, and to apply them works an injustice upon petitioner.

The manifest policy of Congress in recent years is to give greater justice to maritime workers. A forced construction of the Limited Liability Acts should not be indulged to defeat this intent.

Messrs. Ira S. Lillick, J. Arthur Olson, and *Chalmers G. Graham* submitted for respondents.

Messrs. Louis T. Hengstler and *Frederick W. Dorr* filed a brief as *amici curiae* on behalf of the American-Hawaiian Steamship Company, by special leave of Court.

Mr. Justice Holmes delivered the opinion of the Court.

The petitioner suffered a severe injury on the high seas while employed as an engineer on the tugboat *Henrietta,*

belonging to A. Paladini, Incorporated, a corporation of the State of California. He sued the corporation and also the respondents, the stockholders of the same, seeking to hold the latter liable under the Constitution of the State, Article XII, § 3 and the Civil Code, § 322, which provide that each stockholder shall be individually and personally liable for such proportion of all its debts and liabilities contracted during the time he was a stockholder, as the amount of stock owned by him bears to the whole of the subscribed capital stock. The respondents took proceedings in the District Court of the United States to limit their liability under the Acts of Congress, and the limitation was established by the Circuit Court of Appeals for the Ninth Circuit under R. S. § 4283, (Code, Title 46, § 183,) and the Act of June 26, 1884, c. 121, § 18, 23 Stat. 57. (Code, Title 46, § 189.) 26 F. (2d) 21. These statutes, it will be remembered, provide for the limitation of the liability of shipowners to the value of the vessel and pending freight, and of part owners to their proportional share. The argument of the present petitioner is that the stockholders of A. Paladini, Inc., were not the owners of the *Henrietta* and that their liability under the law of California was an independent one voluntarily assumed by contract, with which the Acts of Congress do not interfere.

The Circuit Court of Appeals disposed of the case after a thorough discussion. It is unnecessary to do more than to make a short statement of the points. The purpose of the act of Congress was "to encourage investment by exempting the investor from loss in excess of the fund he is willing to risk in the enterprise." 26 F. (2d) 24. *Richardson* v. *Harmon,* 222 U. S. 96, 103. *Hartford Accident & Indemnity Co.* v. *Southern Pacific Co.,* 273 U. S. 207, 214. For this purpose no rational distinction can be taken between several persons owning shares in a vessel directly and making the same division by putting the title in a corporation and distributing the corporate stock. The

policy of the statutes must extend equally to both. In common speech the stockholders would be called owners, recognizing that their pecuniary interest did not differ substantially from those who held shares in the ship. We are of opinion that the words of the acts must be taken in a broad and popular sense in order not to defeat the manifest intent. This is not to ignore the distinction between a corporation and its members, a distinction that cannot be overlooked even in extreme cases, *Behn, Meyer & Co.* v. *Miller,* 266 U. S. 457, 472, but to interpret an untechnical word in the liberal way in which we believe it to have been used—as has been done in other cases. *International Stevedoring Co.* v. *Haverty,* 272 U. S. 50.

The other branch of the petitioner's argument seems to us a perversion of the California law. The effect of that law so far as it goes is to destroy the operation of a charter as a nonconductor between the persons injured by a breach of corporate duty and the members of the corporation, who but for the charter would be liable. As suggested in *Flash* v. *Conn,* 109 U. S. 371, it leaves the members to a certain extent in the position of copartners. But that is the liability that the Acts of Congress mean to limit. Having no doubt of the comprehensive purpose of Congress we should not be ingenious to construe the California statute in such a way as to raise questions whether it could be allowed to interfere with the uniformity which has been declared a dominant requirement for admiralty law.

Decree affirmed.

LEWIS ET AL. *v.* UNITED STATES.

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

No. 182. Argued December 3, 4, 1928.—Decided March 5, 1929.

1. An offense committed within the territorial limits of the Eastern District of Oklahoma as then existing was indictable and triable