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INTERNATIONAL LAW-JURISDICTION-APPLICATION OF UNITED STATES SEAMAN'S LAWS TO FOREIGN SEAMEN ON FOREIGN VESSELS

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INTERNATIONAL LAW—JURISDICTION—APPLICATION OF UNITED STATES SEAMAN'S LAWS TO FOREIGN SEAMEN ON FOREIGN VESSELS—Libelants, eleven Greek seamen, signed a contract in the United States for a voyage from this country to Spain on a Greek vessel. They were discharged when the ship reached Barcelona. The shipowners made advance payments to these seamen, as they had in the past, and deducted such payments when settlements were made in the United States at the end of the voyage, a practice contrary to a federal statute.¹ Prior to libelants' return to the United States from Spain, where they had been properly discharged, suit was instituted in their behalf for wages. Respondents paid into court a sum which, they claimed, constituted the wages due. The district court held that it lacked jurisdiction because libelants had not terminated their voyage in the United States and were not present in this country when the suit was instituted. On appeal, *held*, reversed. The court had jurisdiction of the wage dispute because of the violation of the statute prohibiting advances. Despite libelants' discharge in a foreign country, the statute was applicable to this case because the advances and settlements were both made in the United States, the vessel was in the United States when the suit was started, and the disputed wage balance had been paid into court. *Heros v. Cockinos*, (4th Cir. 1949) 177 F. (2d) 570.

Normally, an admiralty court has jurisdiction of a suit involving foreign seamen and vessels if the parties are before the court or if the vessel is in the waters of the country in question.² However, matters of internal order and discipline are, usually by treaty, left to the jurisdiction of the foreign consul of the nation of

¹ 38 Stat. L. 1168-9 (1915), 46 U.S.C.A. (1944) §599: (a) "It shall be unlawful in any case to pay any seaman wages in advance of the time when he has actually earned the same. . . . Any person violating any of the foregoing provisions of this section shall be deemed guilty of a misdemeanor. . . . The payment of such advance wages . . . shall in no case except as herein provided absolve the vessel or the master or the owner thereof from the full payment of wages after the same shall have been actually earned. . . . (e) This section shall apply as well to foreign vessels while in the waters of the United States, as to vessels of the United States. . . ."

² See 1 HYDE, INTERNATIONAL LAW, 2d rev. ed., 735-9 (1945) and Coffey, "Jurisdiction over Foreigners in Admiralty Courts," 13 CAL. L. REV. 93 at 94 (1925).

the ship's registry.³ In the United States, assuming that the parties or the ship are in this country, it is within the discretion of the federal district courts to accept or reject jurisdiction of suits involving them.⁴ These courts will usually take jurisdiction when it would best meet the ends of justice and promote the rights of the parties.⁵ In extreme cases, the decision of a district court to take or withhold jurisdiction will be reversed on appeal because of what is considered to be an abuse of discretion.⁶ However, when a statute is involved which is expressly made applicable to foreign vessels in United States waters, as in the principal case,⁷ it would seem that the district courts no longer may exercise a wide discretion in accepting or rejecting jurisdiction. The following rules have been developed under the statute in the principal case: (1) It does not apply to advancements made in foreign ports, regardless of the nationality of the seaman or the ship;⁸ (2) it does apply to advancements made in American ports, regardless of the seamen's nationality, if the voyage ends in this country;⁹ and (3) it does apply to advancements made to American seamen in American ports where the voyage does not end in this country.¹⁰ The essential difference between the principal case and the third rule is the fact that, in the principal case, the seamen involved were not Americans. Since the main factor in determining the existence of jurisdiction under the statute appears to be the making of advances in the United States, it is submitted that the principal case was correctly decided.¹¹

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³ See ROBINSON, ADMIRALTY 14 (1939) and 27 CALIF. L. REV. 424-32 (1939).

⁴ Charter Shipping Co. v. Bowring, 281 U.S. 515, 50 S.Ct. 400 (1930); The Integritas, (D.C. Md. 1933) 3 F. Supp. 891; The Paula, (C.C.A. 2d, 1937) 91 F. (2d) 1001.

⁵ Heredia v. Davies, (C.C.A. 4th, 1926) 12 F. (2d) 500; The Canadian Commander, (D.C. N.Y. 1930) 43 F. (2d) 857; 29 MICH. L. REV. 767-8 (1931).

⁶ The Eir, (C.C.A. 4th, 1932) 60 F. (2d) 124; 1 GEO. WASH. L. REV. 267 (1933).

⁷ See note 1, supra.

⁸ Sandberg v. McDonald, 248 U.S. 185, 39 S.Ct. 84 (1918); Neilson v. Rhine Shipping Co., 248 U.S. 205, 39 S.Ct. 89 (1918); Jackson v. The Archimedes, 275 U.S. 463, 48 S.Ct. 164 (1928); The Belgier, (D.C. N.Y. 1917) 246 F. 966; 27 YALE L.J. 849 (1918); 28 YALE L.J. 403 (1919). *Contra*: The Imberhome, (D.C. Ala. 1917) 240 F. 830.

⁹ Patterson v. The Bark Eudora, 190 U.S. 169, 23 S.Ct. 821 (1903); The Elizabeth Maersk, (D.C. La. 1919) 258 F. 765.

¹⁰ The August Belmont, (D.C. Ga. 1907) 153 F. 639.

¹¹ See Korthinos v. Niarchos, (4th Cir. 1949) 175 F. (2d) 730 at 733, the case on which the court in the principal case primarily relied.