RECENT CASES

Admiralty—Workmen's Compensation—Locus of Accident as Determining Jurisdiction to Award Compensation—[United States].—While unloading a vessel lying in navigable waters the plaintiff, a longshoreman, was knocked from the deck by a hoist and sustained injuries from falling on a wharf. He recovered an award under the state workmen's compensation act. On appeal to the United States Supreme Court, it was *held*, the commission had no authority to grant an award. Since the accident happened on navigable water, the cause of action was governed exclusively by admiralty law. *Minnie v. Port Huron Terminal Co.*, 55 Sup. Ct. 884 (1935).

The federal courts have jurisdiction of all cases involving admiralty or maritime affairs. U.S. Const., Art. 3, § 2; Jud. Code, §§ 24(3), 256(3). Since this jurisdiction is exclusive, workmen's compensation acts are invalid so far as they encroach upon it. *Southern Pacific Co. v. Jensen*, 244 U.S. 205 (1917); *Messel v. Foundation Co.*, 274 U.S. 427 (1927). Consequently, suits for injuries sustained in maritime work under maritime contracts must be brought in the federal courts, *Peters v. Veasey*, 251 U.S. 121 (1919); *American Shipbuilding Co. v. Aros*, 128 Ohio St. 258, 191 N.E. 2 (1934); and a longshoreman's contract of employment is essentially maritime. *Peters v. Veasey*, 251 U.S. 121 (1919).

But the place of the accident will determine which law applies. *Kenward v. The Admiral Peoples*, 55 Sup. Ct. 885 (1935). If the impact is received on land, the federal laws do not govern. *Smith & Son v. Taylor*, 276 U.S. 179 (1928) (converse of principal case). If the accident occurs on a vessel in navigable waters, the federal law applies. *Washington v. Dawson*, 264 U.S. 219 (1924); *Lawson v. N.Y.S.S.Co.*, 148 La. 290, 86 So. 815 (1921); *Kelly v. Eastern S.S. Lines*, 278 Mass. 361, 179 N.E. 921 (1932). There has been some conflict, however, in spite of this very definite rule. See *Lermond's Case*, 122 Me. 319, 119 Atl. 864 (1923) (accident must end as well as begin over navigable waters to give admiralty jurisdiction); *West v. Kozer*, 104 Ore. 94, 206 Pac. 542 (1922) (an elective compensation act held not avoided because accident occurred over navigable waters). A reference to the principal case and to its converse, *Smith & Son v. Taylor*, *supra*, shows that the Supreme Court uniformly looks to the place where the original impact was received to determine the applicable law.

The conflicting cases may be explained by the fact that prior to 1927 an employee compelled to sue in admiralty to recover for injuries, sustained in the course of his employment, met obstacles which did not exist under workmen's compensation. He had to prove negligence. *Luckenbach S.S. Co. v. Campbell*, 8 F. (2d) 223 (C.C.A. 9th 1925). His suit was subject to the defenses of contributory negligence of fellow servant and assumption of risk. *The Max Morris*, 137 U.S. 1 (1890); *Cassil v. U.S. Emergency Fleet Corp.*, 289 Fed. 774 (C.C.A. 9th 1923). See Robinson, Legal Adjustments of Personal Injuries in the Maritime Industry, 44 Harv. L. Rev. 223 (1930). This was precisely the evil which the state workmen's compensation acts sought to remedy. 1 Boyd, Workmen's Compensation § 4 (1913). Consequently, after the general adoption of the compensation acts by the states, there was a strong tendency to bring many of these cases

within the acts. Two amendments of the Judicial Code §§ 24 and 256, 40 Stat. 395 (1917), 42 Stat. 635 (1922), sought to save for injured employees, other than the master and members of the crew of vessels on navigable waters, their rights and remedies under their own state workmen's compensation acts. However, these two amendments have been declared unconstitutional as destructive of the uniformity of maritime jurisdiction, and as discriminatory in attempting to deprive federal courts of jurisdiction over certain admiralty cases while vesting them with jurisdiction over others. *Knickerbocker Ice Co. v. Stewart*, 253 U.S. 149 (1920); *Washington v. Dawson*, 264 U.S. 219 (1924). In 1927 the Longshoremen's and Harborworkers' Compensation Act was passed, 44 Stat. 1424 (1927), making federal law in these cases comparable to the state compensation acts. See Athearn, The Longshoremen's Acts and the Courts, 23 Calif. L. Rev. 129 (1935). With the reason for the extending of the scope of the state acts gone, that tendency should disappear, and the line between the two jurisdictions should appear more clearly.

Constitutional Law—Applicability of the Fifth and Sixth Amendments to State Legislation—Sufficiency of Statutory Language—[Federal].—A Florida statute prohibited the conduct of "any 'marathon,' 'marathon dance,' 'walkathon,' 'skatathon,' 'bikathon,' or any other physical contest of a similar nature." The plaintiff, a promoter of a marathon, seeks to enjoin the enforcement of this statute, contending that because the words "marathon," "walkathon," etc., had no established meanings, there was no ascertainable standard of guilt and that he was therefore being deprived of his right to due process and his right to be informed of the nature of the charge against him. *Held*, the enforcement of the statute will not infringe plaintiff's rights as secured by the fifth and sixth amendments of the Federal Constitution. *Weaver v. Stone*, 11 F. Supp. 559 (D.C. Fla. 1935).

A statute which forbids, or requires, the doing of an act in terms so vague and uncertain that men of common intelligence must guess and differ as to its application, violates the requirements of due process of law. See 3 Willoughby, Constitutional Law § 1142 (2d ed. 1929). Criminal statutes of the Federal government have been brought within the purview of this general rule by application to them of the fifth and sixth amendments of the federal constitution, the former amendment requiring due process of law, and the latter, that a party to a criminal suit shall know the nature and cause of the accusation against him. *U.S. v. Cohen Grocery Co.*, 255 U.S. 81 (1921); *Nash v. U.S.*, 229 U.S. 373 (1913). But these amendments are not applicable to state statutes, for, since Chief Justice Marshall's opinion in *Barron v. Baltimore* (7 Pet. (U.S.) 243 (1833)), in which the fifth amendment was declared operative as a check on the federal government only, there has never been any serious doubt that the first ten amendments are inapplicable to state legislation. Black, Constitutional Law 42 (4th ed. 1927). The Supreme Court, however, has extended to state legislation also the requirement that statutes be reasonably definite and certain by interpreting the due process clause of the fourteenth amendment as obligating the states to frame their criminal statutes so that no defendant shall be held responsible for offenses so indefinitely described that he cannot fairly determine whether or not he is committing them. *Cline v. Frink Dairy Co.*, 274 U.S. 445 (1927); *Hygrade Provision Co. v. Sherman*, 266 U.S. 497 (1925); *Omaechevarria v. Idaho*, 246 U.S. 343 (1918); *International Harvester Co. v. Kentucky*, 234 U.S. 216 (1914). Since the same standards have been estab-