

# Admiralty/Maritime Courts

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In this article we will examine various kinds of courts and their jurisdictions. We will discover that initially there were a variety of types of courts in America but they have for all practical purposes been changed into Admiralty/Maritime courts. We will also discuss the impact of this change upon our freedoms.

The Constitution for the United States of America recognizes a variety of courts. Article 3, section 2, mentions "Cases, in Law and Equity" and "Cases of admiralty and maritime Jurisdiction." The 7<sup>th</sup> Amendment also mentions "suits at common law." Let's review these types of courts and jurisdictions as they will be the focus of our discussion.

1. Common law –is distinguished from law which is created by passing legislation. It is the statutory and case law background of England and the American colonies before the American Revolution. It comprised the body of principles and rules of action relating to the government and security of people and their property, which was derived solely from usage, customs and courts cases, particularly the ancient unwritten law of England. Many people view the *common law* as the fountain source of substantive and remedial rights, if not our very liberties
2. Court of Law – These were one of the primary types of courts where people could expect to have their cases heard and where they could seek justice. The procedures followed in these courts were those of the *common law*.

“Court of law. In a wide sense, any duly constituted tribunal administering the laws of the state or nation; in a narrow sense, a court proceeding according to the course of the common law and governed by its rules and principles, as contrasted with a court of equity.” [Black’s Law Dictionary, 5<sup>th</sup> Edition.]

3. Equity Courts – These courts were derived from the jurisdiction of a chancellor. They apply the rules and principles of chancery (i.e. equity) law and follow the procedure in equity. These courts attempt to administer justice according to fairness in a particular situation as contrasted with the strictly formulated rules of *common law*. It is based on a system of rules and principles which originated in England as an alternative to the rules of *common law*. An individual could seek relief under this system in courts of equity rather than in courts of law.  
  
“Equity, courts of. Courts which administer justice according to the system of equity, and according to a peculiar course of procedure or practice. Frequently termed ‘courts of chancery.’ With the procedural merge of law and equity in federal and most state courts, equity courts have been abolished.” [Black’s Law Dictionary, 5th Edition, emphasis added]
4. Admiralty Court – These courts originally heard cases involving commerce on the high seas in which the king or government had some commercial interest. A history of this type of court will be provided later.  
  
“Admiralty court. A court exercising jurisdiction over all maritime contracts, torts, injuries, or offenses. Federal district courts have jurisdiction over admiralty and maritime actions.” [Black’s Law Dictionary, 5th Edition.]
5. Maritime Court – These courts originally heard cases involving commerce on the high seas in which the king did not have any commercial interest. A history of this type of court will be provided later.  
  
“Maritime court. A court exercising jurisdiction in maritime causes; one which possesses the powers and jurisdiction of a court of admiralty.” [Black’s Law Dictionary, 5th Edition.]

Originally, this nation had all of the courts listed above. We will see that the Equity and Law courts were combined, as were the Admiralty and Maritime courts. We will also see that at this point, the Federal and State courts within the United States generally operate under Admiralty/Maritime jurisdiction.

At first glance, you may wonder why we should be concerned about this transition. We will explain why this change should be of great concern to all freedom loving Americans. A quote from President Andrew Johnson will provide a preliminary indication of why we should be concerned about Admiralty Courts.

“Trials [in Admiralty Jurisdiction]... take place without the intervention of a jury, and without any fixed rules of law or evidence. The rules on which offenses are to be heard and determined... are such rules and regulations as the President... shall prescribe. No previous presentment is required, nor any indictment charging the commission of a crime against the laws; but the trial must proceed on charges and specifications. The punishment will be -- not what the law declares, but such as an [Admiral] may think proper...” [President Andrew Jackson in the CONGRESSIONAL GLOBE, 39th Congress, 1st Session, page 916 (February, 1866).]

This statement shows that several of the key factors that serve to assure justice may not be present in an Admiralty Court, including but not limited to: a jury may not be present, the rules of what is admissible evidence and what is not may not be fixed or clear, an indictment for criminal charges may not be required, and the punishment may have no basis in law. This kind of loose legal system can produce a situation in which anyone could be convicted of any crime or could lose his property in a civil matter.

## Flags Found in Courts

The first evidence to support our claim that we are operating under Admiralty Courts can be found by examining the flag which appears in these courts. According to United States statutes, the flag of the United States will contain red and white alternating stripes (13), a blue field with white stars. Title 4, of the United States Code (USC) describes the United States flag.

“The flag of the United States shall be thirteen horizontal stripes, alternate red and white; and the union of the flag shall be forty-eight stars, white in a blue field.” [4 USC § 1]

“On the admission of a new State into the Union one star shall be added to the union of the flag; and such addition shall take effect on the fourth day of July then next succeeding such admission.” [4 USC § 2]

Title 4 USC § 3 goes on to describe what constitutes mutilation of the flag. It says that anything added to the flag (i.e. a gold fringe), as described in 4 USC § 1 and 2, is a mutilation of the flag. And yet, if you go to any federal or State courtroom or the Judges’ chambers, you will see a military flag being displayed. This flag will have a gold fringe around three sides of the flag’s edges. The flag of the United States is displayed nowhere on the premises of our courthouses.

Here are some quotes which explain the gold fringe on the flag.

“The Placing of a fringe on the national flag, the dimensions of the flag and the arrangement of the stars in the union are matters of detail not controlled by statute, but are within the discretion of the President as commander in Chief of the Army and Navy.” [34 Ops. Atty. Gen. 83 (1925)]

“... a military flag is a flag that resembles the regular flag of the United States, except that it has a YELLOW FRINGE border on three sides. The president of the United States designates this deviation from the regular flag, by executive order, and in his capacity as Commander-in-Chief.” [Executive Order 10834, August 21, 1959; 24 F.R.6865, issued by Dwight David Eisenhower]

The fact that a military flag is being displayed in our courtrooms indicates that these tribunals/courts operate under a questionable jurisdiction. (See the essay on War/Emergency Powers) Since tribunals/courts generally display military flags throughout most of the courthouses in America, these flags render the proceedings *Admiralty* and may indicate that they are operating under the authority of President due to martial law. However, the pretended jurisdiction is that of a *Court of Law*. This means these tribunals/courts are committing fraud to mislead the general public. In cases where this fact has been addressed in the proceedings, Judges threaten the complaining party

with a charge of *contempt of court*. The complaining party then faces unlimited imprisonment or fines for exposing the fraud. Covertly, the judiciary is proceeding as military tribunals enforcing the emergency powers of the President. Threat and duress are measures used to perpetrate this fraud.

## Admiralty/Maritime Historical Background

Early in England's history, people discovered that the rules governing the settlement of grievances that occurred on land just didn't seem to work for grievances that merchants had with each other on some commerce that occurred on the high seas. For example, on land, goods that were damaged in transit for some reason were generally recovered from the accident for valuation and insurance adjustment purposes, and eye witnesses were often present to describe how the damage happened. In that way, fault and damages could be properly assigned to the responsible party. But transportation that crosses over water is very different. Many ships were lost at sea when high winds caused them to sink as merchandise was being transported. No one saw the ship sink, the merchandise is gone for good, the crew is gone as well, and months and years pass in silence as a ship that was expected to arrive in a foreign port never appears. The cause for the disappearance could have been piracy, the weather, or the captain and crew stealing the ship and cargo. But in any event, there is no other party to be sued, and no one knows what happened (there were no radios then). In some cases, searching expeditions were sent out to look for the lost ship, and so years would pass between the initial sinking or stealing, and a declaration to the fact that was accepted by all interested parties.

This left a rather serious question to be answered. How do you assign negligence for damages out on the high seas? No one saw anything happen. No one has any evidence that anything happened. Who was at fault, and why?

On land, assigning fault and making partial recovery by the responsible party is quite common, but not so out on the high seas. So a special marine jurisdiction ["jurisdiction" in this case meaning a special set of rules] was developed organically, piece by piece and sometimes case by case. It eventually developed to limit liability exposure to the carrier and others, and also minimized the losses that could be claimed by forcing certain parties to assume risks they don't have to assume when merchandise is being shipped over land. Also, a Court of Admiralty does not use a jury. Everything is handled summarily before a Judge in chronologically compressed proceedings. Also, **there are no fixed rules of law or evidence**. This means that it is somewhat like an Administrative Proceeding in the sense that it is a free-wheeling evidentiary jurisdiction, anything goes. In such a loose evidentiary arena, *circumstantial evidence* is generally considered the ultimate form of proof in Maritime and Admiralty litigation matters.

So, limitations of liability were codified into England's statutes. These statutes were designed to benefit a special interest group, insurance companies. The insurance companies knew exactly what the statutes should contain to limit the amount of money the insurance company would have to pay out in claims.

Originally there was a distinction between Maritime and Admiralty jurisdiction. Admiralty jurisdiction originally covered all situations for a marine-like environment in which the government (King back then) had a financial interest. The government's

interest in a matter may not be readily apparent due to the existence of a hidden contract. Any commerce which took place on the high seas which did not involve the government (King) falls under Maritime jurisdiction. At least, that distinction between Admiralty and Maritime is the way things once were, but no more.

Generally speaking, Maritime Jurisdiction is the “*it happened out on the sea*” version of Common Law jurisdiction and jury trials are quite common. Admiralty jurisdiction is the “*it happened out on the sea*” version of summary Equity jurisdiction, and generally features non-jury trials to settle grievances.

Up until the mid-1800s, here in the United States, merchants frequently paid off each other in gold coins and company notes. At that time, there was no monopoly by the federal government on currency circulation like there is today. So, it was rare that the government had any involvement with private Maritime commerce. It was easy to see the distinction between Maritime jurisdiction contracts that involved private parties and Admiralty jurisdiction that involved commercial contracts where the government was a party. However, today in the United States, all Commercial contracts that private parties enter into with each other that are under Maritime Jurisdiction, are now also under Admiralty: The reason is the beneficial use and re-circulation of Federal Reserve Notes makes the federal government an automatic silent third party to the arrangements.

The Judges in the old Admiralty courts in England were paid based upon fees rather than being paid a salary [see a report on Admiralty Jurisdiction, UNITED STATES as a Party; Federal Question Jurisdiction; Three Judge Courts (Part II) in Hearings held before the Judiciary Committee, Subcommittee on Improvements in Judicial Machinery, United States Senate, 92nd Congress, 2nd Session, discussing Senate Bill 1876, at page 639 (May, 1972).] The judges in those courts tended to want to expand their jurisdiction because they were financially compensated based on the number and types of cases they accepted. So they obviously accepted and asserted Admiralty jurisdiction over the maximum number of cases possible. Those old Admiralty courts wanted the self-serving financial enrichment that filing fees paid by plaintiffs gave them. And so in seeking Admiralty jurisdiction relief, plaintiffs expected and got fast, and summary relief. And being financially compensated the way they were, it is not surprising that Admiralty jurisdiction courts were simply expected by custom to be the shortest, curtest, most summary, and chronologically most abbreviated form of adjudication imaginable.

Today in the United States, there is an assertion of Admiralty and Maritime jurisdiction going on in places where it does not belong. Admiralty jurisdiction has in many respects, “come ashore”. It currently affects almost every element of our inland commercial society. Today’s practice of Admiralty and Maritime jurisdiction is found on the navigable rivers of the United States, as well as world-wide off-shore oil drilling activity. Admiralty jurisdiction rules are used to settle claims and grievances regarding cargo, international conventions, financing, banking, insurance, legislation, navigation, hazardous substances from nuclear power plants, stevedoring (the unloading of a vessel at a port), and undersea mining and development.

Here in the United States, the very first Federal Court ever established by Congress, was a Court of Admiralty [See The First Federal Court by Henry J. Bourguignon,

American Philosophical Society, Philadelphia (1977)]. It seems that the use and availability of Admiralty jurisdiction is deemed very important to our government.

The reason why Admiralty jurisdiction is of concern to us is because our government is using jurisdiction attachment rules applicable to an Admiralty jurisdictional environment to on land based citizens where Admiralty jurisdiction does not correctly belong. The only ordinary land based people who should properly be under the government's *in personam* Admiralty jurisdiction are government employees (federal and state), military service personnel, and those who specifically contract into Admiralty Jurisdiction (such as employees working for a Defense contractor with a security clearance, and private contractors hired by government to perform law enforcement related work).

Under the 14th Amendment, there is now an assumption that all (14<sup>th</sup> Amendment) citizens share personally liable for the payment of the UNITED STATES debt. A federal district court case will demonstrate this assertion is true.

[“He pays Social Security, he uses the U.S. Postal Service, therefore, Mr. Cooper is a citizen of the UNITED STATES.” \[United States of America v. Austin Gary Cooper, 89-109-Cr- Hoeveler; DCSFl, \(1990\) and concurred with by\) the 11<sup>th</sup> Circuit Court of Appeals, United States of America v. Austin Gary Cooper, 90-5597\]](#)

This case was over the issue of citizenship. The judge ruled that because Mr. Cooper was liable for income tax because he was a citizen of the United State [14<sup>th</sup> Amendment citizen] (see the essay on State vs. Federal Citizenship for more details).

So the government comes along with statutes (Title 46) and claims that (despite the 14th Amendment) the citizens are going to be granted limited liability exposure in relation to the national debt. This give the citizens important financial benefits. Based upon these benefits, the government now believes they have a hidden contract with each citizen which gives them the right to put us under Admiralty jurisdiction.

Let's say that your share of the national debt is \$250,000. Let's further say that the government offers to limit your liability to that debt as a (14<sup>th</sup> Amendment) citizen to \$100,000. That would mean that the government has just given you a benefit (limited liability) that is worth \$150,000. Based upon this benefit, the government believes it has a right to tax (income tax) any gain (income, wages, etc.) that you receive by participated in a system that the government created.

The origin of the government claim of Admiralty Jurisdictional attachment reasoning goes back into the Civil War days. At that time, Congress offered the 14<sup>th</sup> Amendment to the States for ratification in order to “correct the injustice” from the Supreme Court's Dred Scott Case [Dred Scott vs. Sanford, 60 U.S. 393 (1856)]. This case ruled that blacks could not be considered Citizens, with all of the rights, privileges, benefits and immunities of Citizens. This was true even though the slaves had been freed by President Lincoln's Emancipation Proclamation, and freed again by the 13th Amendment. Blacks could not be given full citizenship rights because the Supreme Court said, in the Dred Scott, that Congress was never given the jurisdiction to do so.

Politicians saw the Dred Scott Case as one having very unique qualities to acquire maximum political mileage. The public exhibited passionate sentiments associated with the ruling. The movement towards adopting the 14<sup>th</sup> Amendment, to deal with those *utterly heinous* and *racist Supreme Court Justices* quickly acquired momentum.

It was through an operation of the 14<sup>th</sup> Amendment's *incorporation doctrine* that the entire Bill of Rights was made binding on the State courts by the Supreme Court (as the Bill of Rights was initially binding, by original intent, only on the federal government). The States could have just as easily been bound to the provisions of the Bill of Rights by the Supreme Court based on the *republican form of government clause* in Article 4, Section 4 of the Constitution. The 14th Amendment now spins an invisible web of an adhesive attachment of government's Admiralty/Equity Jurisdiction.

Breaking 14<sup>th</sup> Amendment citizenship ties is very powerful. I know of several criminal prosecutions where merely filing a clumsy Objection to the 14<sup>th</sup> Amendment in their local county recorder's office terminated the prosecution. In one case, there was a pre-trial dismissal; in others appeal was necessary. In another federal criminal case, the defendant was mysteriously released from pre-trial commitment on his friend's telling the court of his status relative to 14<sup>th</sup> Amendment citizenship.

Your status as an State Citizen (American Native) is a very powerful instrument in rescinding invisible Admiralty contracts that the government will never publicly admit existence. Only a tiny handful of words in a few Federal Appellate Courts cautiously speak about the significance of Admiralty jurisdiction in a tax collection setting. There are some judges who only reluctantly talk about these concepts in their chambers, but clam up tight and refuse to talk about anything in their court while on the record.

Another layer of Admiralty jurisdiction involves your acceptance of Social Security benefits. The government views Social Security as an insurance program with premiums being paid into it, claims being paid out of it, and future retirement endowment benefits being accepted.

Congress does recognize Social Security as an insurance operation, and in Title 42, which contains the Social Security Act, there are numerous blunt references to Social Security being an insurance program; such as:

- Section 402(b): "Wife's insurance benefits"
- Section 415: "Computation of Primary Insurance"
- Section 423: "Disability Insurance Benefit Payments"
- Section 426(a): "Transitional provision... for hospital insurance benefits"

If in fact Social Security is an insurance program by stature, then the reason why the government has another second invisible layer of Admiralty jurisdiction, is because in the United States, going clear back to the beginning, the Federal judiciary has always considered grievances that were brought into their Court based on *policies of insurance*, to fall under the legal reasoning of Admiralty jurisdiction.

["My judgment accordingly is, that policies of insurance are within... the admiralty and maritime jurisdiction of the United States."](#) [Federal Judge Story, in *Delovio vs. Boit*, 7 Federal Cases, #3776, at page 444 (1815)]

So, it is the fact that Social Security is an *insurance program* that is the tie-in between that IRS W2 and 1040 forms, and Admiralty jurisdiction.

## Expanding Admiralty Jurisdiction

Article 3, Section 2 of the Constitution describes the “judicial Power” of the federal courts. Clause 1 authorizes the “supreme Court and ... such inferior Courts as the Congress may ... establish.” Clause 3 defines the jurisdiction of the Supreme Court but also indicates that Congress has the authority to regulate the jurisdiction of federal courts. Clause 2 lists the specific limited jurisdiction of federal courts. This clause specifically mentions that the federal courts have jurisdiction over “all Cases of admiralty and maritime Jurisdiction”. However, at that time, it was understood that admiralty and maritime cases only included those that occurred on the high seas. They did not include cases on land.

The emergency powers statutes passed by Congress have been used to expand the jurisdictional coverage of Admiralty courts two significant ways (for more complete coverage of emergency powers, please see the essay on War/Emergency Powers).

In cases relating to property taken in war, a distinction was made between enemy property captured on the sea and property capture on land. The federal courts used Admiralty jurisdiction over property captured at sea but they had no jurisdiction over property captured on land (on U.S. soil or otherwise). This made sense given the jurisdiction of Admiralty courts was over cases occurring on the high seas. But, the Trading with the Enemy Act of 1917 gave the federal courts jurisdiction over enemy’s property on U.S. soil. This statute was valid since the Congress has the constitutional authority to regulate jurisdiction of federal courts. Since Admiralty jurisdiction was used, it is evident that the high sea jurisdiction had been brought inland.

“That the district courts of the United States are hereby given jurisdiction to make and enter all such rules as to notice and otherwise, and all such orders and decrees; and to issue such process as may be necessary and proper in the premises to enforce the provisions of this Act.” [Trading with the Enemy Act of October 6, 1917, Section 17]

When the 1933 Trading with the Enemy Act made residence of American (including citizens) the enemy, the authority of the federal courts had to be expanded to cover the jurisdiction of the enemies (Americans) property as well. Again, Admiralty jurisdiction was used for inland cases. This was accomplished through the Federal Rules of Civil Procedures Act of June 19, 1934. The provisions of this act went into effect in 1938 after an action by the Supreme Court. This implies that the federal courts can use Admiralty jurisdiction on anyone within the U.S.

## Merging Jurisdictions

Over the last 70 years, two major events have merged various jurisdictions. The first occurred on April 25, 1938, the Supreme Court overturned the standing precedents of the prior 150 years concerning “common law” in the federal government.

**“There is no Federal common law, and Congress has not power to declare substantive rules of common law applicable in a State, whether they be local or**

general in their nature, be they commercial law or a part of law of torts.” [Erie Railroad Co. vs. Tompkins, 304 U.S. 64, 82 L. Ed. 1188 (1938), emphasis added]

This ruling in essence did away with the *common law* at the federal level. The tragedy of this decision is that the *common law* is the fountain source of our rights, if not our very liberties. After this decision, the members of the BAR Association formed committees, and held meetings concerning the judicial procedures. Their stated objective was to amend laws “to conform to a trend of judicial decisions or to accomplish similar objectives”, including blending the jurisdictions of Law and Equity together. This blend is known as “*One Form of Action.*” [See: *Constitution and By Laws*, Article 3, Section 3.3(c), 1990-91 Reference Book, see also *Colorado Methods of Practice*, West Publishing, Vol. 4, pages 2-3, Authors Comments.] The net affect of their actions was to **abolished the distinction between Actions At Law** (based on *common law* in Courts of Law) **and Suits in Equity** (based on equity jurisdiction in Equity Courts).

In 1982, the jurisdictions established by the Constitution (Article 3, Section 2, and 7th Amendment), were merged and fundamentally changed to include only Admiralty Jurisdiction. This was the fundamental change necessary to effect unification of Civil and Admiralty procedure. The Federal Rules of Procedure were changed to **abolish the distinction between Civil Actions** (all types of actions, including suits in Equity and actions at law, other than criminal proceedings) **and Suits in Admiralty.** [*Federal Rules of Procedure*, 1982 Ed., pg. 17]

The net effect of all of these changes is that **all court decisions are now based on commercial law or business law which have criminal penalties associated with them.** Much of the basis for these decisions can be found in the Uniform Commercial Code (UCC). Rather than openly calling this new law Admiralty/Maritime Jurisdiction, it is called Statutory Jurisdiction.

Since the UCC plays such an important role, let’s review how it came into being.

## Uniform Laws

Beginning in the 1890s, there was a move started by the American BAR Association (ABA) to create uniform laws throughout the several States. At first blush, one might think that uniform laws between the States couldn’t do any harm. The intent of the founders was that each State would be a separate republic. In fact, the U.S. Constitution guarantees the States a republican form of government. This implies that the States wanted independence to run their own affairs as they saw fit. If this was the intent of the Founders, one has to wonder why uniform laws between the States is necessary or desirable. We shall see that these efforts have dovetailed into the efforts to transform our legal system.

The effort to create uniform laws throughout the several States began in 1891 when the ABA formed a committee. The initial effort focused on getting the States to appoint one or more commissioners to help draft uniform laws between the States. In 1897, these commissioners were urged to work toward enactment of uniform legislation in their States. By 1899, 33 of the existing 45 states and two territories had appointed uniform law commissioners. These commissioners frequently met in conference to draft uniform legislation. Over the next forty or so years, most states passes the uniform laws that these

conferences drafted. These included such things as the Uniform Desertion Act, the Uniform Marriage Act, the Uniform Corporation Act, the Uniform Marriage and Marriage License Act, the Uniform Child Labor Act, etc. In 1915, the conference of commissioners was given the name National Conference of Commissioners on Uniform State Laws. In 1935 the Conference entered into agreement with American Law Institute for cooperative drafting uniform acts. By 1940, 53 uniform statutes out of the 93 that had been drafted by the conference remained on the books in most States.

In 1940, a committee was formed to draft the Uniform Commercial Code (UCC). The UCC would be the crowning achievement of over 50 years of work. In 1951, the UCC was approved at a joint meeting of the National Conference of Commissioners on Uniform State Laws and the American Law Institute. A national meeting of the ABA also approved the UCC. In 1960, the constitution of the National Conference of Commissioners on Uniform State Laws was modified to require that all members must be member of the BAR Association. So one could say this move of uniformity in State laws has been brought to us by the lawyers of our nation. Between 1953 and 1974 all of the states adopted the UCC in whole or substantially.

## Conclusion

To sum up our concern then, all courts in America have been converted into Admiralty/Maritime courts. These courts have **there are no fixed rules of law or evidence**. Under such a system, a judge can make any kind of ruling he wishes to make. For example, there have been many cases in which people were not permitted to plead their constitutionally guaranteed rights because the judge would not permit it. The judge also determines what is admissible and what is not. Without the protections offered by the strictly formulated rules of *common law* and a fully empowered jury, our liberties are at great risk.