A

Article III of the Constitution extends the judicial power of federal courts to "all Cases of admiralty and maritime Jurisdiction." U.S. Const. art. III, § 2, cl. 1. And Congress implemented Article III by conferring on district courts exclusive, original jurisdiction of "[a]ny civil case of admiralty or maritime jurisdiction" and "[a]ny prize brought into the United States and all proceedings for the condemnation of property taken as prize." 28 U.S.C. § 1333. Maritime law was placed under national control "because of its intimate relation to navi- gation and to interstate and foreign commerce." Panama R.R. Co. v. Johnson , 264 U.S. 375, 386 (1924).

The body of admiralty law referred to in Article III did not depend on any express or implied legislative action. Its existence, rather, preceded the adoption of the Constitution. It was the well-known and well-developed "venerable law of the sea" which arose from the custom among "seafaring men," see United States v. W. M. Webb, Inc. , 397 U.S. 179, 191 (1970), and which enjoyed "international comity," see The Belgenland , 114 U.S. 355, 363 (1885). Nations have applied this body of maritime law for 3,000 years or more. **Although it would add little to recount the full history here, we note that codifications of the maritime law have been preserved from ancient Rhodes (900 B.C.E.), Rome (Justinian's Corpus Juris Civilis ) (533 C.E.), City of Trani (Italy) (1063), England (the Law of Oleron) (1189), the Hanse Towns or Hanseatic League (1597), and France (1681), all articulating similar principles**. And they all constitute a part of the continuing maritime tradition of the law of nations -- the jus gentium .

The framers drafted Article III with this full body of maritime law clearly in view. This is not to say that the Constitution recognized an overarching maritime law that was to bind United States courts. On the contrary, the Constitution conferred admiralty subject matter jurisdiction on federal courts and, by implication, authorized the federal courts to draw upon and to continue the development of the substantive, common law of admiralty when exercising admiralty jurisdiction. See The Lottawanna , 88 U.S. 558, 572-78 (1874); see also 1 Benedict on Admiralty § 105, at 7-11 (7th ed. 1998). As Chief Justice Marshall observed:

A case in admiralty does not, in fact, arise under the Constitution or laws of the United States. These cases are as old as navigation itself; and the law, admiralty and maritime, as it has existed for ages, is applied by our Courts to the cases as they arise.

The American Ins. Co. v. 356 Bales of Cotton , 26 U.S. (1 Pet.) 511, 544-45 (1828).

Since the Founding, federal courts sitting in admiralty jurisdiction have steadfastly continued to acquiesce in this jus gentium governing maritime affairs. Indeed, the Supreme Court has time and again admonished that "courts of this and other commercial nations have generally deferred to a non-national or international maritime law of impressive maturity and universality." Lauritzen v. Larsen , 345 U.S. 571, 581 (1953); see also United States v. W.M. Webb, Inc. , 397 U.S. at 191 (1970) (observing that the "[m]aritime law . . . provides an established network of rules and distinctions that are practically suited to the necessities of the sea"). This body of maritime law "has the force of law, not from extraterritorial reach of national laws, nor from abdication of its sovereign powers by any nation, but from acceptance by common consent of civilized communities of rules designed to fos- ter amicable and workable commercial relations." Larsen , 345 U.S. at 581 -82. Thus, when we say today that a case in admiralty is governed by the general maritime law, we speak through our own national sovereignty and thereby recognize and acquiesce in the time-honored principles of the common law of the seas. See Ex Parte Western Maid , 257 U.S. 419, 432 (1922).

The exercise of admiralty subject matter jurisdiction has never been limited to maritime causes arising solely in the United States territorial waters. On the contrary, maritime causes arising from matters on the high seas anywhere in the world have traditionally been brought to courts of admiralty, subject only to a discretionary exercise of the doctrine of forum non conveniens . See Offshore Logistics, Inc. v. Tallentire , 477 U.S. 207, 218-19 (1986); see also Mason v.

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The exercise of admiralty subject matter jurisdiction has never been limited to maritime causes arising solely in the United States ter- ritorial waters. On the contrary, maritime causes arising from matters on the high seas anywhere in the world have traditionally been brought to courts of admiralty, subject only to a discretionary exercise of the doctrine of forum non conveniens . See Offshore Logistics, Inc. v. Tallentire , 477 U.S. 207, 218-19 (1986); see also Mason v. Ship Blaireau , 6 U.S. (2 Cranch) 240 (1804); The Belgenland , 114 U.S. at 362 -63 ( in rem admiralty jurisdiction proper in action arising out of collision on the high seas between two foreign vessels); Treasure Sal- vors, Inc. v. The Unidentified Wrecked & Abandoned Sailing Vessel , 640 F.2d 560, 567 (5th Cir. 1981) ("Since the admiralty

jurisdiction of United States courts is not limited by the nationality of ships, sail- ors or seas involved and since the principles of the law of salvage are part of the jus gentium , i.e., the international maritime law, United States courts have long adjudicated salvage claims involving foreign vessels, alien salvors and salvage operations occurring on the high seas"); Grant Gilmore & Charles Black, Jr., The Law of Admiralty § 1-19, at 51-52 (2d ed. 1975) (stating that"[t]he courts of the United States take jurisdiction, subject to some reservations imposed by their own application of the doctrine of forum non conveniens , of suits on maritime claims arising out of transactions and occurrences anywhere in the world" (footnotes omitted)).

Even though admiralty courts may adjudicate matters arising on navigable waters anywhere in the world, that recognition of subject matter jurisdiction does not imply that American courts in admiralty have the power to command that any person or any ship appear before a United States court sitting in admiralty. Stated differently, Article III of the Constitution and 28 U.S.C. § 1333 do not amount to an attempt by the United States to extend its sovereignty over persons ( in personam ) or things ( in rem ) beyond the territorial limits of the United States. While we note this important distinction between a broad subject matter jurisdiction and the limitation imposed by territorial jurisdiction, we discuss the territorial limitation in more detail, below.

B

The general maritime law of nations includes a law of finds and a law of salvage, and courts of admiralty apply one to the exclusion of the other, as appropriate, to resolve claims in property discovered and recovered in navigable waters by those other than the property's owners or those taking through them. See Columbus-America Discovery Group v. Atlantic Mut. Ins. Co. , 974 F.2d 450, 459-60 (4th Cir. 1992). Under the law of finds, a person, who discovers a shipwreck in navigable waters that has been long lost and abandoned and who reduces the property to actual or constructive possession, becomes the property's owner. See Martha's Vineyard Scuba Headquarters, Inc. v. The Unidentified, Wrecked and Abandoned Steam Vessel , 833 F.2d 1059, 1065 (1st Cir. 1987); Hener v. United States , 525 F. Supp. 350, 354- 57 (S.D.N.Y. 1981) (cited and quoted with approval in Columbus- America Discovery , 974 F.2d at 460).