SUPREME COURT OF THE UNITED STATES

No. 00–346

NORFOLK SHIPBUILDING & DRYDOCK CORPORATION, PETITIONER *v.* CELESTINE GARRIS, ADMINISTRATRIX OF THE ESTATE OF CHRISTOPHER GARRIS, DECEASED

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

[June 4, 2001]

JUSTICE GINSBURG, with whom JUSTICE SOUTER and JUSTICE BREYER join, concurring in part.

I join all but Part II–B–2 of the Court's opinion.

Following the reasoning in *Moragne* v. *States Marine Lines, Inc.*, 398 U. S. 375 (1970), the Court today holds that the maritime cause of action *Moragne* established for unseaworthiness is equally available for negligence. I agree with the Court's clear opinion with one reservation. In Part II–B–2, the Court counsels: "Because of Congress's extensive involvement in legislating causes of action for maritime personal injuries, it will be the better course, in many cases that assert new claims beyond what those statutes . . . allow, to leave further development to Congress." *Ante*, at 9. *Moragne* itself, however, tugs in the opposite direction. Inspecting the relevant legislation, the Court in *Moragne* found no measures counseling against the judicial elaboration of general maritime law there advanced. See 398 U. S., at 399–402, 409; see also *id.*, at 393 ("Where death is caused by the breach of a duty imposed by federal maritime law, Congress has established a policy favoring recovery in the absence of a legislative direction to except a particular class of cases."). In accord

with *Moragne*, I see development of the law in admiralty as a shared venture in which "federal common lawmaking" does not stand still, but "harmonize[s] with the enactments of Congress in the field." *Ante*, at 9 (quoting *American Dredging Co.* v. *Miller*, 510 U. S. 443, 455 (1994)). I therefore do not join the Court's dictum.