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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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STEWART v. DUTRA CONSTRUCTION CO.**CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE FIRST CIRCUIT**

No. 03–814. Argued November 1, 2004—Decided February 22, 2005

As part of a project to extend the Massachusetts Turnpike, respondent Dutra Construction Company dug a trench beneath Boston Harbor using its dredge, the *Super Scoop*, a floating platform with a bucket that removes silt from the ocean floor and dumps it onto adjacent scows. The *Super Scoop* has limited means of self-propulsion, but can navigate short distances by manipulating its anchors and cables. When dredging the trench here, it typically moved once every couple of hours. Petitioner, a marine engineer hired by Dutra to maintain the *Super Scoop*'s mechanical systems, was seriously injured while repairing a scow's engine when the *Super Scoop* and the scow collided. He sued Dutra under the Jones Act, alleging that he was a seaman injured by Dutra's negligence, and under §5(b) of the Longshore and Harbor Workers' Compensation Act (LHWCA), 33 U. S. C. §905(b), which authorizes covered employees to sue a "vessel" owner as a third party for an injury caused by the owner's negligence. The District Court granted Dutra summary judgment on the Jones Act claim, and the First Circuit affirmed. On remand, the District Court granted Dutra summary judgment on the LHWCA claim. In affirming, the First Circuit noted that Dutra had conceded that the *Super Scoop* was a "vessel" under §905(b), but found that Dutra's alleged negligence had been committed in its capacity as an employer and not as the vessel's owner.

Held: A dredge is a "vessel" under the LHWCA. Pp. 4–15.

(a) Congress enacted the Jones Act in 1920 to remove the bar to negligence suits by seamen. Although that Act does not define "seaman," the maritime law backdrop at the time it was passed shows that "seaman" is a term of art with an established meaning under general maritime law. The LHWCA, enacted in 1927 to provide

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scheduled compensation to land-based maritime workers but not to “a master or member of a crew of any vessel,” 33 U. S. C. §902(3)(G), works in tandem with the Jones Act: The Jones Act provides tort remedies to sea-based maritime workers and the LHWCA provides workers’ compensation to land-based maritime employees. In *McDermott Int’l, Inc. v. Wilander*, 498 U. S. 337, and *Chandris, Inc. v. Latsis*, 515 U. S. 347, this Court addressed the relationship a worker must have to a vessel in order to be a “master or member” of its crew. Now the Court turns to the other half of the LHWCA’s equation: determining whether a watercraft is a vessel. Pp. 4–6.

(b) The LHWCA did not define “vessel” when enacted, but §§1 and 3 of the Revised Statutes of 1873 specified that, in any Act passed after February 25, 1871, “‘vessel’ includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.” The LHWCA is such an Act. Section 3’s definition has remained virtually unchanged to the present and continues to supply the default definition of “vessel” throughout the U. S. Code. Section 3 merely codified the meaning “vessel” had acquired in general maritime law. In fact, prior to the passage of the Jones Act and the LHWCA, this Court and lower courts had treated dredges as vessels. By the time those Acts became law in the 1920’s, it was settled that §3 defined “vessel” for their purposes, and that a structure’s status as a vessel under §3 depended on whether the structure was an instrument of naval transportation. See *Ellis v. United States*, 206 U. S. 246, 259. Then as now, dredges served a waterborne transportation function: In performing their work they carried machinery, equipment, and a crew over water. This Court has continued to treat §3 as defining “vessel” in the LHWCA and to construe §3 consistently with general maritime law. *Norton v. Warner Co.*, 321 U. S. 565. Pp. 6–10.

(c) *Cope v. Vallette Dry Dock Co.*, 119 U. S. 625, and *Evansville & Bowling Green Packet Co. v. Chero Cola Bottling Co.*, 271 U. S. 19, did not adopt a definition of vesselhood narrower than §3. Rather, they made a sensible distinction between watercraft temporarily stationed in a particular location and those permanently anchored to shore or the ocean floor. A watercraft is not capable of being used for maritime transport in any meaningful sense if it has been permanently moored or otherwise rendered practically incapable of transportation or movement. By including special-purpose vessels like dredges, §3 sweeps broadly, but other prerequisites to qualifying for seaman status under the Jones Act provide some limits. A worker seeking such status must prove that his duties contributed to the vessel’s function or mission and that his connection to the vessel was substantial in nature and duration. *Chandris, supra*, at 376. Pp.

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10–12.

(d) The First Circuit held that the *Super Scoop* is not a “vessel” because its primary purpose is not navigation or commerce and because it was not in actual transit at the time of Stewart’s injury. Neither prong of that test is consistent with §3’s text or general maritime law’s established meaning of “vessel.” Section 3 requires only that a watercraft be “used, or capable of being used, as a means of transportation on water,” not that it be used primarily for that purpose. The *Super Scoop* was not only “capable of being used” to transport equipment and passengers over water—it was so used. Similarly, requiring a watercraft to be in motion to qualify as a vessel under §3 is the sort of “snapshot” test rejected in *Chandris*. That a vessel must be “in navigation,” *Chandris, supra*, at 373–374, means not that a structure’s locomotion at any given moment matters, but that structures may lose their character as vessels if withdrawn from the water for an extended period. The “in navigation” requirement is thus relevant to whether a craft is “used, or capable of being used,” for naval transportation. The inquiry whether a craft is “used, or capable of being used,” for maritime transportation may involve factual issues for a jury, but here no relevant facts were in dispute. Dutra conceded that the *Super Scoop* was only temporarily stationary while the scow was being repaired; it had not been taken out of service, permanently anchored, or otherwise rendered practically incapable of maritime transport. Finally, Dutra conceded that the *Super Scoop* is a “vessel” under §905(b), which imposes LHWCA liability on vessel owners for negligence to longshoremen. However, the LHWCA does not meaningfully define the term “vessel” in either §902(3)(G) or §905(b), and 1 U.S.C. §3 defines the term “vessel” throughout the LHWCA. Pp. 13–15.

343 F. 3d 10, reversed and remanded.

THOMAS, J., delivered the opinion of the Court, in which all other Members joined, except REHNQUIST, C. J., who took no part in the decision of the case.