

# Introduction

## The Seams of Empire

### Four Sailors Walk Off a Ship

In May 1895, in the port of Knappen, Washington, Robert Robertson, H. H. Olsen, John Bradley, and Morris Hanson participated in a simple and time-honored tactic of maritime labor resistance: unhappy with their treatment and conditions, the four men deserted their posts on the barkentine *Arago* and set out for Astoria, Oregon.<sup>1</sup> The captain of the *Arago* then reported the four men to local and state authorities. When the deserters arrived in Astoria, they were arrested and jailed until the *Arago* was ready to sail sixteen days later. Once the *Arago* was ready to depart, the authorities forcibly returned all four men to the vessel. Upon their return, the captain ordered them to “turn to,” which in maritime parlance essentially means “get to work.” They refused. The captain then had them placed “in irons” and confined below deck. A few days later, when the *Arago* reached San Francisco, they were subsequently arrested and jailed for desertion. For nine months, Robertson and his compatriots sat in jail while they awaited trial, where they were eventually found guilty of desertion. Under the leadership of Andrew Furuseth, the recently formed Sailor’s Union of the Pacific (SUP) and their national organization the International Seaman’s Union of America (ISU), challenged the verdict and financed an appeal all the way to the U.S. Supreme Court: they argued that the arrest of Robertson and company was a violation of the Thirteenth Amendment, which banned slavery and involuntary servitude.<sup>2</sup>

In January 1897, the Supreme Court ruled against the four sailors and upheld their desertion convictions. The Court based its decision on the grounds that historically, sailors had been, and in its opinion, still were an “exceptional” class of labor.<sup>3</sup> Writing for the majority, justice Henry Billings Brown demonstrated the general exceptionality of maritime labor by pointing to a long line of precedents stretching all the way back to the “Rhodian Sea Laws” of the seventh century.<sup>4</sup> As to the sailor’s specific constitutional challenge, Brown stated that the Thirteenth Amendment did not apply to sailors because their servitude was “voluntary,” rather than involuntary as the Constitution states—they had freely signed their employment contracts before a U.S. shipping commissioner in San Francisco harbor. To add insult to injury, Brown further found that the exceptional status of a maritime laborer involved “the surrender of his personal liberty during the life of the contract.”<sup>5</sup> In the Court’s opinion, this surrender of personal liberty meant that a seaman could not break his contract or desert his ship, pointing out that the “ancient characterization of seamen as ‘wards of the admiralty’” still applied.<sup>6</sup> As to the state’s role in tracking down the deserting sailors, Brown cited the Maritime Law of 1790—which the SUP called the Fugitive Slave Law of the Sea—and the Shipping Commissioners Act of 1872, which “authorizes the apprehension of deserting sailors, with or without the assistance of the local public officers or constables without warrant.”<sup>7</sup> The seemingly endless evidence of statutory precedent cited by the Court raises the question: how could the SUP leadership possibly be so naive in thinking they could win, especially considering Congress passed the 1872 Shipping Commissioners Act after the Thirteenth Amendment?

The SUP’s confidence stemmed from the recently passed Maguire Act, which Congress enacted in February 1895, a few months before Robertson and company walked off the *Arago*. Among other things, the Maguire Act abolished imprisonment for desertion in the coastwise or domestic trade (that is, maritime trade between U.S. ports). Indeed, Robertson, Olsen, Bradley, and Hansen deserted the *Arago* believing their actions were lawful under the provisions of the Maguire Act. After all, they signed on to the *Arago* at a U.S. port in San Francisco and deserted in another American port in Oregon. Why, then, were the men arrested and imprisoned if the Maguire Act abolished imprisonment for desertion in the domestic trade? The answer to this question lay in the fact that the American ports of call were only the first leg of the *Arago*’s journey under Robertson and companies’ contract. After sailing north to Oregon and Washington, the *Arago* was then on its way to Valparaiso, Chile, and a few other foreign ports. As a result, the courts defined the *Arago* and its laborers as operating in the *foreign* rather than the *domestic* trade.

The *Arago* incident is significant because it raises larger questions about the process through which the lines between foreign and domestic are established and foreshadows how important this question became in the years immediately following the Court's infamous verdict. Even though the sailors in question deserted in an American port, having departed from an American port, because their contract was for a voyage where the ultimate destination was foreign, the Court considered them outside the domestic trade. The Court had created an absurd legal fiction, defining an American citizen standing on American soil as laboring outside the United States. Moreover, as the *Arago* case demonstrates, these boundaries mattered a great deal. Though political boundaries may be abstract concepts, how, why, and where empires draw them has material consequences in the lives of real people. For Robertson and his compatriots, the difference between foreign and domestic was profoundly important. Laboring on the wrong side of the domestic/foreign divide determined whether or not they had the fundamental freedom to quit their jobs. This fact led the SUP to hereafter refer to the *Arago* case as the second Dred Scott decision.<sup>8</sup> In 1895 and 1897, this question concerned a small group of workers in a peripheral part of a peripheral industry in a peripheral region of the country. A year later, geopolitical events conspired to bring the question of the foreign and domestic to the forefront of American politics.

After 1898, when the United States acquired a transoceanic colonial empire, the question of where the domestic ended and the foreign began was elevated into the national consciousness. Americans began to wrestle with something they had previously never considered. After a century of manifest destiny and seemingly endless westward expansion, Americans began to seriously consider placing limitations on this expansion. They were also divided over what form that expansion should take. Since the beginning of the nineteenth century, the process by which the United States acquired new territory and incorporated it into the nation's pre-existing political architecture was largely consistent. There may have been vicious and violent confrontations over which labor system, slave or free, would ultimately prevail in the newly acquired territory. However, whether the United States built that new territory upon slave or free labor, the process of incorporation remained the same: Congress first organized it as a territorial government that would eventually apply for statehood. This happened with the land immediately west of the Appalachians following the Revolution, the Louisiana territory, and the post-1848 trans-Mississippi territorial acquisitions. The idea that new territory would eventually become part of the United States was manifest.<sup>9</sup>

After 1898 this assumption became . . . *complicated*. The former Spanish colonies that the United States acquired during the Spanish-American War could

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not be integrated so easily, if at all.<sup>10</sup> If this new territory could not become integrated in the same way as before, what kind of relationship would the Philippines, Hawai'i, Cuba, and Puerto Rico have with their new imperial rulers? What status would the people that lived in these territories have within the emergent American imperial system? How would a nation founded upon white supremacy absorb a territory full of people who in the popular imagination fell outside the bounds of whiteness? Were they citizens or subjects? Were they free to move about the imperial system? Or would their movement be controlled? After 1898 the questions were not just how, why, and where the United States should draw lines between the foreign and domestic, but also, how, why, and where it should draw lines between nation and empire.

Labor leaders and the organizations they represented—especially those acting for merchant sailors—were both central to and on the front lines of this process. They were the individuals most affected by these boundaries. Sailors who labored in the foreign trade crossed these invisible boundaries every time they went to work. Indeed, scholars have long held the so-called insular cases as the ultimate arbiter in determining whether the Constitution followed the flag.<sup>11</sup> To be sure, the insular cases were essential in establishing the relationship between nation and empire or metropole and colony. It is important to note, however, that these cases mainly focused on trade, tariffs, and commodities, mostly between the United States mainland and the colonies in the Caribbean. For working people, this was a very different story. Here, the question was about who rather than what could cross these lines, what that meant, and why it mattered. It was less about the trade relationship between nation and empire but about the collision and potential integration of different labor systems and labor markets. In short, the relationship between nation and empire and foreign and domestic was also a labor question.

With that in mind, this book will reveal the vital role played by domestic class conflict in the process by which the boundaries, both internally and externally, of the emerging U.S. imperial system were shaped and reshaped. This was a fluid process, perpetually in motion; the boundaries were rarely, if ever, fixed. This is why merchant sailors are the ideal group of workers to bring this process into sharper focus. They were constantly in motion. As will become apparent over the course of this book, the boundaries ebbed and flowed with them, sometimes to their advantage and sometimes to their detriment. Maritime labor leaders, more than any other segment of the American labor movement, contested and shaped these boundaries. Their attempts to define these boundaries, however, were vigorously resisted by the representatives of shipping capital, who had their own ideas about where these boundaries should be drawn, if at all.