

1-1-1992

The Judicial Business of a Nineteenth-Century Federal Trial Court: The Northern District of California, 1851-1891

Christian G. Fritz

University of New Mexico - School of Law

Follow this and additional works at: https://digitalrepository.unm.edu/law_facultyscholarship



Part of the [Law Commons](#)

Recommended Citation

Christian G. Fritz, *The Judicial Business of a Nineteenth-Century Federal Trial Court: The Northern District of California, 1851-1891*, 5 Ninth Judicial Circuit Historical Society 217 (1992).

Available at: https://digitalrepository.unm.edu/law_facultyscholarship/174

This Article is brought to you for free and open access by the UNM School of Law at UNM Digital Repository. It has been accepted for inclusion in Faculty Scholarship by an authorized administrator of UNM Digital Repository. For more information, please contact amywinter@unm.edu, lsloane@salud.unm.edu, sarahrk@unm.edu.

THE JUDICIAL BUSINESS OF A NINETEENTH-CENTURY FEDERAL TRIAL COURT: THE NORTHERN DISTRICT OF CALIFORNIA, 1851-1891

BY CHRISTIAN G. FRITZ

Having survived the San Francisco earthquake and fire of 1906 nearly intact, the records of the federal district court for the Northern District of California are an invaluable aid in assessing the work of the lower federal courts in the nineteenth century. From the establishment of that court in 1851, Ogden Hoffman served as the sole judge for the northern district until his death forty years later.¹ Documents from his lengthy tenure offer many opportunities for an examination of the nature of the judicial process, the development of a federal judge, and the workings of the common law.² In

Christian G. Fritz is associate professor of law at the School of Law, University of New Mexico.

The author would like to thank Dean Leo Romero and the United States Judicial Conference Bicentennial of the Constitution Committee for providing research grants that made this article possible.

¹Ogden Hoffman came from a socially prominent New York family; his father served as U.S. attorney for the Southern District of New York (1841-1845) and as New York attorney general (1853-1856). A graduate of Columbia University and Harvard Law School, Hoffman practiced briefly with his father in New York City before leaving for California in 1850, where, except for occasional visits to the East Coast, he remained for the rest of his life. On Hoffman, see Oscar T. Shuck, *A History of the Bench and Bar of California* (San Francisco, 1901), 472-73, and Christian G. Fritz, *Federal Justice in California: The Court of Ogden Hoffman, 1851-1891* (Lincoln and London, 1991) [hereafter cited as Fritz, *Federal Justice in California*].

²For these broader questions, see Fritz, *Federal Justice in California*, *supra* note 1.

addition, his cases provide a detailed picture of federal trial court practice in a variety of doctrinal contexts. As Lawrence Friedman has observed, the empirical analysis of data from courts over time "is of particular value, because it is sensitive to changes in legal culture, and in the functions of the courts."³

Hoffman's tenure afforded him virtually all the jurisdiction that a federal district court of the nineteenth century could: circuit court powers, special land jurisdiction, and proceedings in bankruptcy, as well as the admiralty, criminal, and common-law and equity dockets. His cases reveal how a nineteenth-century federal trial court was used, by whom, and with what effect.

During Hoffman's tenure approximately nineteen thousand cases were filed in his court in eight different dockets (see Table 1), yet it would be misleading to assume that many filings automatically meant a heavy caseload or that few filings implied the opposite. Essentially, it depended on the docket and the type of case involved. For instance, although more than twice as many bond cases as land-grant cases were filed, the bond cases were perfunctorily disposed of, while the land cases preoccupied Hoffman for years. Thus, the numbers distort the work of the court and Hoffman's labors unless one understands how the various dockets functioned.⁴

Given the size of the dockets, it was impractical to examine all of them with equal attention for this study. Although each of the 19,009 cases was examined, the private admiralty, criminal, and land dockets were the most scrutinized, followed by the common-law and equity and United States admiralty dockets. Those receiving the most scrutiny dealt with the core of matters that concerned most other district courts during the latter half of the nineteenth century. Moreover, slighting the land-grant litigation would have ignored its central importance to Californians and distorted Hoffman's judicial role. Because the bond cases and habeas corpus petitions were largely formulaic and repetitive, only a limited review of them seemed necessary, given the focus of Hoffman's judgeship. Likewise, the bankruptcy docket entailed normally routine, if time-

³Lawrence M. Friedman, "Opening the Time Capsule: A Progress Report on Studies of Courts Over Time," *Law and Society Review* 24 (1990), 229, 240.

⁴Compared with the state civil trial courts of Boston in the late nineteenth century (which dealt overwhelmingly with debt or injury cases), Hoffman's court enjoyed a wide diversity of cases. See Robert A. Silverman, *Law and Urban Growth: Civil Litigation in the Boston Trial Courts, 1880-1900* (Princeton, 1981), 17. For the disposition and dynamics of civil litigation in Illinois, partly during the late nineteenth century, see Stephen Daniels, "Caseload Dynamics and the Nature of Change: The Civil Business of Trial Courts in Four Illinois Counties," *Law and Society Review* 24 (1990), 299-320.

consuming, administration of the short-lived Bankruptcy Act of 1867.⁵ Still, both the bankruptcy and Chinese habeas corpus cases have intrinsic interest that warrant more detailed treatment than the scope of the present study allowed.⁶

With the exception of the northern district's special land-grant jurisdiction, the dockets most closely examined involved litigation that spanned Hoffman's forty-year period. The year-by-year breakdown of cases filed in all dockets (see Table 2) suggests a fairly constant rate of judicial business in his court, with the exception of the late 1880s. A more accurate impression of his work, however, may be gained from the graph plotting the private admiralty and criminal law and private land-grant dockets (see Table 3). The sporadic nature of criminal filings reflects to some degree how judicial business in Hoffman's court came in successive waves of different dockets. The heavy, but erratic, filings in bankruptcy between 1867 and 1878 and in the Chinese habeas corpus docket between 1882 and 1891 may be seen in Table 4. Only the combination of all dockets creates the impression of steady judicial business.

Hoffman's greatest judicial labors occurred in five somewhat overlapping periods. Initially, the availability of a federal court of admiralty on the West Coast brought an immediate surge in that docket, both in private litigation and suits brought by the United States. The greatest number of admiralty cases were filed during this early period, roughly between 1851 and 1854, and a large number of suits were initiated in the common-law and equity docket. By the mid 1850s, just as this first increase in business was abating, Hoffman embarked on a second period of intense labor dealing with private land grants coming on appeal from the federal Board of Land Commissioners appointed by the president. For the better part of the next decade, the judge found himself deeply involved in land litigation. A measure of the involvement of the United States attorney's office in challenging these grants was the significant decline of prosecutions in the criminal and United States admiralty dockets in the 1850s.

After a short period of decreasing involvement with the land

⁵Act of March 2, 1867, 14 U.S. Stat. 517.

⁶The typicality of Hoffman's work load and disposition of cases is difficult to gauge because of the relative dearth of comparable information from other nineteenth-century federal district courts. Mary K. Bonsteel Tachau's *Federal Courts in the Early Republic: Kentucky, 1789-1816* (Princeton, 1978) is very helpful for the early period, but most studies of federal courts in the latter half of the nineteenth century are not archivally based. See, for example, Stephen B. Presser, *Studies in the History of the United States Courts of the Third Circuit* (Washington, 1982), and Jeffrey B. Morris, *Federal Justice in the Second Circuit* (New York, 1987).

cases, Hoffman's work load grew as a result of the Bankruptcy Act of 1867. For more than a decade, bankruptcy matters preoccupied his court, both in terms of petitions filed in that docket and collateral actions filed in the common-law and equity docket. By the late 1870s, when repeal of the Bankruptcy Act had eliminated that source of litigation, a fourth period of judicial labor—of less intensity than its predecessors—began with the increase of criminal matters. Although criminal cases continued to be filed until the end of Hoffman's tenure, a fifth and final period of work was to overshadow any previous ones. From 1882 the Chinese habeas corpus cases dominated Hoffman's docket and engaged his energies until his death in 1891.

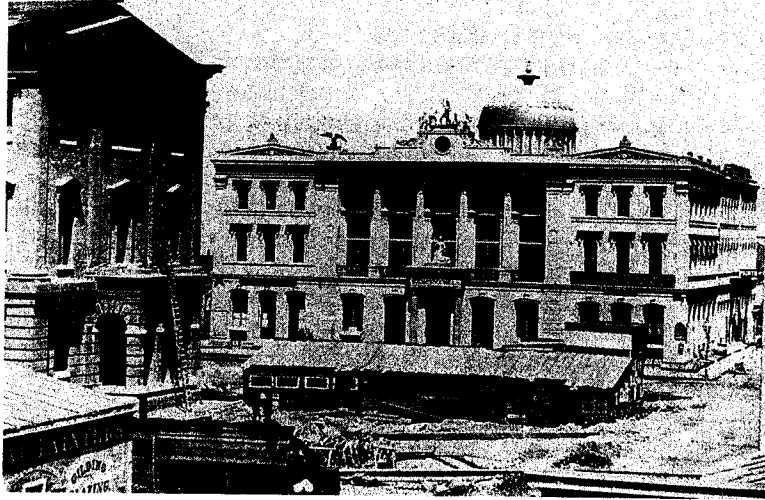
Such an overview of the judicial business before Hoffman's court must take into account the operation of specific dockets as follows.

PRIVATE ADMIRALTY

The tremendous initial growth in admiralty litigation may clearly be seen in Table 3.⁷ During the first four years of Hoffman's court, more than 30 percent of all the admiralty cases the judge would hear were filed; about half his entire docket emanated from filings within the first decade. From the 1860s onward, however, the admiralty filings remained fairly constant.

Of the some three thousand cases filed, contract-related actions overwhelmingly predominated over tort-related actions. The breakdown by subject of Hoffman's admiralty docket (see Table 5) shows that libels by sailors seeking their wages were the single most frequent type of action brought. In fact, in terms of the number of sailors using Hoffman's court, 35 percent is probably a low figure. That figure represents only the number of suits initially brought by sailors for their wages. Quite often, however, sailors and others were allowed to intervene or essentially to join the suit brought by another party against a ship. It was not unusual for more than a dozen different parties with different causes of actions to make claims

⁷Private admiralty cases used in this study correspond to the chronological entries in vol. 1 of the docket book entitled "Admiralty Register, United States and Private Cases" and vols. 2-14, entitled "Admiralty Register, Private Cases," Northern District Archives [hereafter cited as NDA]. As with all the dockets (except land), the Chinese habeas corpus petitions, bond, common-law and equity, criminal and admiralty cases are in the National Archives [hereafter cited as NA], San Bruno branch, while most of the docket books are in the NDA.



U.S. Courthouse, San Francisco, c. 1856 (Courtesy The Bancroft Library)

against a ship that had been libelled. For this reason, the number of persons using Hoffman's admiralty court substantially exceeded the number of libels filed.

Despite the fact that seamen's wage cases led the list of types of suits brought in admiralty, businessmen and merchants accounted for over half the litigation brought in that docket. The eleven categories in Table 5 that dealt with commercial litigation (categories 2-11 and 13) amounted to 54 percent of the total. In libels for wages (category 1) and suits dealing with their maltreatment by officers and captains due to abandonment, assaults, or false imprisonments (which largely constituted the marine tort category in Table 5), seamen accounted for some 39 percent of all admiralty litigation. The final group of litigants—more important than their numbers would suggest—were passengers on ships, who constituted 4 percent of all cases filed.

It is clear that the northern district was overwhelmingly a plaintiff's court in admiralty, with sailors, businessmen, and passengers winning a decree or settlement in 78, 75 and 72 percent of the time, respectively (see Table 6). Seamen lost their suits only 9 percent of the time, businessmen only 12 percent, and passengers 20 percent of the time. The actual figures for cases settled were probably higher than we are led to believe. Whereas decrees for or against the plaintiff were invariably part of the case file, some of the cases denominated

"abandoned" or "disposition unknown" may well have resulted in unrecorded settlements.⁸

On the other hand, a breakdown of commercial litigation in the admiralty docket shows a greater variation of success rates for specific categories of such litigation, but the same tendency for settlements or decrees in favor of plaintiffs may be observed (see Table 7). With the exception of the seven general-average cases (Table 5), favorable decrees or settlements were obtained by merchants from 67 percent of the collision cases to 89 percent of the bottomry-bond cases. The lower percentage for collision cases reflects the fact that they invariably entailed two diametrically opposite versions of how the accidents occurred. Virtually all the other types of commercial litigation involved suits on maritime liens, which usually resulted in satisfaction for the plaintiff providing the lien could be established. Decrees against the plaintiff, excepting general-average cases, occurred in only 5 to 19 percent of the cases.

One of the most interesting statistics of Hoffman's admiralty docket is the trial rate, which by today's standards is unusually high. Of all 2,931 cases filed (see Table 1), 1,330, or 45 percent, went to trial (see Table 8). Some 41 percent of seamen's wage cases and 68 percent of passenger contract cases went to trial, while 750, or 48 percent, of all commercial litigation cases did so. As high as these rates are, they may have been higher still. Because it was not possible to determine which cases were settled after going to trial as opposed to those settled beforehand, all such cases were considered to have been settled before trial. Only cases that ended in a decree for one party or the other, therefore, constituted the trial rates, even though a number of the cases settled undoubtedly first went to trial.

Taking into account that most trials in the latter half of the nineteenth century were brief by today's standards, their sheer number was onerous for Hoffman. Libels for seamen's wages were usually quickly disposed of, as were many of the libels for supplies, labor, and other services provided to ships. Breach of contract of affreightment cases tended to take more time, as did libels for bottomry bonds and possession. In more complicated cases, trials could take several weeks. Cases dealing with collisions, salvage, and breach of passenger contract involved the most testimony and, hence, occupied the most time. Without the benefit of law clerks and—until the 1870s—without stenographers on a regular basis, Hoffman's perusal of

⁸A study of a state trial court overlapping Hoffman's period shows a similar pattern of dispositions for plaintiffs in contract actions and civil actions generally. See Francis W. Laurent, *The Business of a Trial Court* (Madison, 1959), 244-47, 249-50, 262-64 [hereafter cited as Laurent, *Trial Court*].

evidence, note taking of testimony, and disposition of cases in admiralty were staggering feats, particularly in the first several years of his judgeship.

If Hoffman's trial rate in admiralty differed significantly from that of today, the appellate rates for that docket closely mirrored the contemporary pattern of a small number of appeals. Of the 2,931 cases filed, only 106 (or 4 percent) were ever appealed; of these, the circuit court affirmed in 72 cases, affirmed with modifications in 23 instances, and reversed in 11. Only seven cases were ever appealed to the United States Supreme Court, resulting in one affirmation, two affirmances with modifications, and four reversals.⁹

UNITED STATES ADMIRALTY

All the cases in the United States admiralty docket were filed by the United States attorney's office, usually for forfeiture of cargo or ships pursuant to revenue statutes.¹⁰ Occasionally, penalties were also sought for violation of the statutes. More than 90 percent of all prosecutions were related to revenue violations. Twenty-one percent of such forfeitures were for opium, cigars, and matches—commodities with which the Chinese were prominently connected, either as users or manufacturers and sellers. For the most part, the cases filed in this docket followed the criminal prosecution of individuals for revenue violations.

To a lesser extent than with private admiralty cases, a spurt of United States cases were filed during the first years of Hoffman's court. However, most of them were filed during the 1860s and afterward, more than half of them between 1861 and 1871. The hiatus of prosecutions from the 1850s to the early 1860s parallels the period of greatest activity in the land docket. It seems more likely that the United States attorney's

⁹These rates of appeal were calculated from the information in the following docket books in the Bancroft Library: "Judgment and Decree Book," vol. A (June 5, 1851-August 31, 1861) [D.C.N.D.Cal.]; "Judgment Record in Admiralty," vol. 1 (December 31, 1855-July 26, 1861) [C.C.N.D.Cal.]; "Judgment Record in Admiralty," vol. 1 (March 18, 1863-July 1864) [C.C.N.D.Cal.]; and "Decree Register, Admiralty," vol. 1 (July 30, 1863-April 12, 1893) [C.C.N.D.Cal.].

¹⁰The United States admiralty docket was composed of two separate series of cases. The first series (covering the period 1851-1867) corresponds to entries in "Admiralty Register, United States and Private Cases," vol. 1, and "Admiralty Register, U.S. Cases," vol. 2, NDA. The second series (covering the period 1867 until after the end of Hoffman's tenure) corresponds to entries in "Admiralty and Common Law Register, U.S. Cases," vols. 3-4, NDA.

preoccupation with land claims in the district court, rather than an absence of prosecutable revenue offenses, accounts for the fact that only sixty of the 1,372 cases were filed in the ten years between 1853 and 1862. This discretionary element in federal prosecutions was even greater in the filing and disposition of cases in Hoffman's criminal docket.

PRIVATE ADMIRALTY (CHINESE HABEAS CORPUS)

Although technically part of the private admiralty docket, the Chinese habeas corpus cases deserve to be considered separately.¹¹ Because the Chinese were detained on ships arriving in San Francisco, their habeas corpus petitions were directed to Hoffman in his capacity as an admiralty judge, but he clearly regarded them as unrelated to his admiralty business. The most striking aspect of the Chinese cases was their number (see Table 9). Starting with only four petitions in 1882 (the year of the First Chinese Exclusion Act), they grew to gargantuan proportions—nearly 3,300 petitions in 1888. Altogether, from 1883 to 1891 the habeas corpus petitions accounted for 37 percent of the more than nineteen thousand cases filed during Hoffman's tenure. Despite the fact that the hearings were short, allowing the judge to hear several a day, their sheer volume meant that he labored incessantly for most of his last nine years on the bench.

The federal circuit court sitting in San Francisco also received Chinese habeas corpus petitions. From 1882 until January 1888, almost four thousand habeas corpus writs were filed by Chinese petitioners (including some 2,375 before Hoffman's district court). During these years the federal courts released or discharged approximately 87 percent of the Chinese petitioners. This was largely due to how Hoffman and the other federal judges in San Francisco interpreted the Exclusion Acts in light of national treaty obligations to China and the judges' commitment to due process and notions of equality before the law. Widespread hostility to continued Chinese immigration engendered severe public criticism of Hoffman and his colleagues, and resulted in increasing congressional efforts to exclude Chinese immigration in 1884 and 1888. Between October 1, 1888, and December 1, 1890, a total of 1,401 Chinese habeas corpus cases were filed. Of the 620 cases decided by the end of that period, 533, or 86 percent, ended in the discharge of the petitioners, while only 87, or 14 percent, were

¹¹The cases for the Chinese habeas corpus petitions correspond to entries in "Admiralty Register, Private Cases," vols. 5-14, NDA.


No. 842.

DEPARTMENT OF HIS IMPERIAL CHINESE MAJESTY'S
SUPERINTENDENT OF CUSTOMS.

Canton, 10th October 1893.

I, the undersigned, His Imperial Chinese Majesty's Superintendent of Customs in the Kwang-tung Province, hereby certify that *Tung Yang*, a subject of the Empire of China, to whom this certificate is issued, is entitled under the provisions of the Treaty of the sixth year of the Emperor Kwang-Su, i.e. 1880 between China and the United States, to go and come of his free will and accord to the United States on the presentation of the same to the Collector of Customs of the American port at which he shall arrive.

The required description of his person follows:—

NAME	AGE	OCCUPATION
<i>Tung Yang</i>	<i>Thirty four</i>	<i>Trader</i>
RESIDENCE	HEIGHT	COMPLEXION
<i>Manila</i>	<i>Five ft 2 1/4 in</i>	<i>Dark</i>
COLOUR OF HAIR	PHYSICAL PECULIARITIES	OFFICIAL TITLE
<i>Black</i>		<i>None</i>

SUPERINTENDENT OF CUSTOMS.

A Canton certificate, issued by the Chinese government under the 1882 Exclusion Act. (Courtesy National Archives)

remanded.¹² Ultimately, efforts by the Chinese to use the federal courts to ameliorate the effects of exclusion were a losing battle, especially after 1891.¹³

BOND CASES

In a sense, these maritime cases were part of the United States admiralty cases because they were all filed by the United States attorney, but they were filed in their own docket and, unlike United States admiralty, extended only from 1851 to 1867.¹⁴ The docket fluctuated partly because of the incentives inherent in the fee system for compensating federal prosecutors, which may be traced in the earliest bond cases filed in the northern district.

Routinely, importers posted a bond to cover duties due on foreign goods. If a certificate verifying that shipment of goods had originated from a domestic port was not produced within six months, the government could seek duty on the goods as imports. Between August and October 1851, United States Attorney Calhoun Benham filed over five hundred cases against importers of goods to San Francisco, alleging a failure to comply with revenue regulations by not demonstrating that the goods were exempt from import duties. His successor, Samuel Inge, complained in 1853 about the many cases that Benham had filed in which "nothing has been done beyond the initiation of a suit."¹⁵ Inge eventually discontinued all the libels in question. Still, at a fee of four dollars per libel, Benham received more than two thousand dollars in fees in one year for what amounted to a perfunctory process.

Between 1851 and 1867, more than eleven hundred bond cases were filed by various United States attorneys. To some extent it may be argued that the filings were justified as a means of making San Francisco's commercial community aware of the revenue regulations and the determination of federal authorities to enforce them. Even so, revenue prosecu-

¹²Joint Select Committee on Immigration and Naturalization, *House of Representatives Report*, 51st Cong., 2d Sess., 1890-1891, 4048:2:412.

¹³For a discussion of this habeas corpus litigation and the response to California's federal courts, see Christian G. Fritz, "A Nineteenth-Century 'Habeas Corpus Mill': The Chinese Before the Federal Courts in California," *American Journal of Legal History* 32 (1988), 347-72.

¹⁴The bond cases correspond to entries in "Common Law and Equity Register, U.S. Cases," vols. 1-2, NDA.

¹⁵Samuel W. Inge to Gilbert Rodman, July 15, 1853, Letters Received From United States Attorneys, Marshals, and Clerks of Court, California, 1851-1898, Solicitor of the Treasury, Record Group 206, NA.

tions, as for example in the bond cases, provided considerable revenue for the United States attorney while the fee system lasted and when other dockets (such as criminal and land) had little business. Despite the number of these cases, they caused little protracted work for Hoffman, since most of them were discontinued by the United States attorney after the appropriate verification of port of shipment or after duties had been paid.

PRIVATE LAND GRANTS

On the other hand, the fewer than five hundred land cases presented some of the greatest challenges to Hoffman and preoccupied him for more than a decade.¹⁶ After the initial filing of cases on appeal from the Board of Land Commissioners in the mid-1850s, it took some time to hear the merits of each case and the additional, often lengthy, evidence and testimony of the parties. The land-grant "appeals" essentially became new trials before Hoffman's court. Beyond the question of the validity or invalidity of claims (involving challenges and counterclaims that frequently persisted for decades), Hoffman played a notable role in adjudicating the surveys of confirmed claims during the 1860s.

The importance of these land cases was exemplified by the high percentage of appeals to the United States Supreme Court. Whereas only 7 of 2,931 (less than 1 percent) of private admiralty cases found their way to the Supreme Court, 59 of 458 land cases (or 13 percent of the total) were appealed to the highest federal court. The result of this protracted litigation took its toll upon land claimants (seventeen years is the estimated average length of time from filing to confirmation), but in the long run such lawsuits usually met with success. By 1878, 79 percent of the private land grants filed before the Board of Land Commissioners had been confirmed by the federal courts.¹⁷

The adjudication of these land cases formed the principal exception to the free rein federal prosecutors in the northern

¹⁶The land-grant cases correspond to entries in "Register Land Cases," NDA. The cases for this docket, however, are not in the NA, but in the Bancroft Library.

¹⁷A general overview of the California land-grant litigation is in William W. Robinson, *Land in California* (Berkeley, 1948), which is also the source of the estimated time for litigation. The impact of the protracted litigation upon Hispanic Californians is traced in Leonard Pitt, *The Decline of the Californios, A Social History of the Spanish-Speaking Californians, 1846-1890* (Berkeley, 1970).

district usually enjoyed in substantive matters. The extraordinary importance of land cases, and the fact that many of them would be appealed to the United States Supreme Court, accounts for the extensive communication from United States attorneys general and other officials in the nation's capital to the local United States attorneys. The degree of involvement only emphasizes the independence federal prosecutors such as those in California generally experienced over most matters.¹⁸

BANKRUPTCY

Also taxing Hoffman's energies were the more than twenty-five hundred bankruptcy cases filed between 1867 and 1878.¹⁹ The judge's conscientiousness and penchant for detail were seriously challenged by the voluminous documentation created by even the simplest bankruptcy. Although Hoffman had much administrative assistance in the form of bankruptcy registers (appointed officers of the bankruptcy court), the final judicial decision was always his. At least 30 percent of the bankruptcies involved businesses, and these tended to be more complex and to create more problems in terms of distributing assets than personal bankruptcies. The Bankruptcy Act itself was fraught with a number of ambiguities which Hoffman, in common with other district judges, struggled with and sought to interpret in the light of subsequent statutory amendments.²⁰

In addition, most of the common-law and equity cases filed dealt with bankruptcy matters that were unusually time-consuming.

One of the most interesting features of the bankruptcy docket was its wide geographical base. Whereas virtually all other litigation before the northern district (land claims excepted) tended to originate from the Bay Area counties and especially San Francisco itself, slightly more than half the bankruptcy cases were filed from outside the city. About five hundred cases, or 19 percent of the total, came from the Gold Rush counties, far from the hub of the state's commercial activity. Bankruptcy petitions were filed in every California county then in existence, and the docket essentially brought the presence of the federal court to a wider area than did any

¹⁸See Correspondence on California Land Claims, Boxes 1-9, Department of Justice, RG 60, NA.

¹⁹The bankruptcy cases correspond to entries in "Bankruptcy Registers," NA.

²⁰For some of the difficulties involved in interpreting the 1867 act, see Charles Warren, *Bankruptcy in United States History* (1935; reprint, New York, 1972), 95-128.

other docket during Hoffman's tenure. Admittedly, the county bankruptcy registers were local men, but the promise of relief from debt came from the federal government as exercised by the federal district judge sitting in San Francisco.

COMMON LAW AND EQUITY

As indicated, with the passage of the Bankruptcy Act of 1867, bankruptcy constituted an important source of cases filed in the common-law and equity docket.²¹ In fact, some 48 percent of the cases were bankruptcy-related (see Table 10). Many of them involved large amounts of money and, as might be expected, produced proportionate documentation. For example, in 1853, several holders of promissory notes successfully sued for over \$51,000. In some cases, the stenographic record exceeded several thousand pages and included numerous depositions. Merely sorting through the evidence was a considerable task. Apart from bankruptcy matters, Hoffman heard an array of cases dealing with land (for example, actions to recover possession of land), contracts (for example, assumpsit and debt actions, suing on bills of exchange), torts (for example, abatement of nuisance and damages for seduction), and statutory violations (for example, recovering duties overcharged by the port collector). Most of these were filed in the docket on the basis that the litigants were residents of different states.

CRIMINAL

The Congressional Act that organized California's federal courts gave the northern district judge circuit and district court jurisdiction over civil matters, but failed to specify criminal matters.²² Congress corrected this omission in 1853, thus giving Hoffman criminal circuit court jurisdiction for two years before the establishment of a special circuit court in 1855.²³

Hoffman's criminal docket comprised three major categories: crimes occurring within a maritime context, violations of

²¹Cases during 1851-1859 correspond to dockets entitled "Common Law and Equity Register, Private Cases," vols. 1-2, NDA. Cases during 1868-1907 correspond to "Common Law and Equity Register," vol. 3, NDA. There were no cases for the period 1860-1867.

²²The criminal docket was also split into two dockets during Hoffman's period, the first covering 1851-1867 and the second from 1867 to 1891. The cases for both series correspond to "Register, Criminal Cases," vols. 1-5, NDA.

²³See Act of September 28, 1850, 9 U.S. Stat. 521, sec. 10, and Act of February 26, 1853, 10 U.S. Stat. 161, sec. 6.



Judge Ogden Hoffman, c. 1887 (Oregon Historical Society)

federal statutes (especially revenue laws), and violations of federal authority (see Table 11). Some 1,522 of the total of 2,937 of criminal cases filed dealt with revenue matters, but this source of judicial business was hardly constant. The general graph plotting the criminal docket (Table 3) reveals the sporadic nature of the filings. In fact, relatively few criminal cases were filed until after the Civil War, nearly 70 percent of the total being between 1879 and 1891 (see Table 12). Mere numbers of cases filed did not necessarily entail significant judicial

labor, but clearly most of Hoffman's work in hearing criminal matters occurred in approximately the last decade of his judgeship.

Maritime-related crimes accounted for 16 percent of Hoffman's criminal docket and dealt with the commonplace crimes of assault, battery, and manslaughter. Of these maritime cases, crimes against the person predominated almost to the exclusion of crimes against property (see Table 13).²⁴ Quite typical were the prosecutions against captains and their officers for beating or cruelly punishing sailors. Most of the maritime criminal cases involved either conduct that exceeded the limits of maintaining shipboard discipline or resistance to a captain's rightful authority. Attacks on officers, mutiny, and refusals to sail were in a sense the obverse of the violence and cruelty inflicted upon the sailors.

The disposition of violent crimes reveals a difference in the rates at which sailors, as opposed to their captains and officers, were convicted (see Table 14). For mutiny, which primarily involved sailors as defendants, convictions were obtained in 57 percent of the cases. On the other hand, when captains and other officers were prosecuted for inflicting cruel and unusual punishment or for beating sailors, they were convicted only 39 and 47 percent of the time, respectively. More telling were the distinctions Hoffman drew between the two groups in meting out harsher sentences to sailors than to their superiors. Captains and their officers were acquitted substantially more often (34 percent for beatings and 43 percent for cruel and unusual punishment) than were sailors (20 percent for assaults on officers and 24 percent for mutinous behavior). This harsher treatment of sailors is the more revealing since, overall, there was a nearly two-to-one incidence of convictions over acquittals for admiralty crimes.

Numerically, the largest source of criminal litigation before Hoffman's court (nearly 80 percent of the total) stemmed from crimes arising under federal statutes. Included under that broad heading were maritime-related statutes, revenue laws, and miscellaneous federal statutes. Table 15 provides a more specific breakdown of the crimes filed under this heading. Only a handful of cases dealing with maritime-related statutes was filed, nearly all of which concerned prosecutions of ship owners

²⁴For a much higher proportion of crimes against property versus crimes against persons during the late nineteenth century in state trial courts, see Laurent, *Trial Court*, supra note 8 at 116 and 127, and Lawrence M. Friedman and Robert V. Percival, *The Roots of Justice: Crime and Punishment in Alameda County, California, 1870-1910* (Chapel Hill, 1981) [hereafter cited as Friedman and Percival, *Roots of Justice*].

for exceeding the legally permissible limit of passengers they could carry for their particular type of vessel. These cases formed, as it were, the criminal component of the civil actions brought in private admiralty for breach of passenger contract.

By far the largest category involving federal statutes entailed revenue laws, of which 97 percent dealt with a failure to pay appropriate taxes and duties, the illegal sale and distribution of liquor, and smuggling opium (see Table 15). Almost 60 percent of the prosecutions for failure to pay business taxes and licenses dealt with the sale and manufacture of cigars and matches; such cases were predominantly filed during the heyday of the anti-Chinese movement, starting in the late 1870s.

The miscellaneous category of prosecutions under federal statutes constituted some 33 percent of the statutory prosecutions. Within this category were the 313 cases involving the illegal sale of naturalization certificates (40 percent of the 782 total). Of these, all but one were dismissed or transferred to the circuit court, and Hoffman thus spent little time on them. This category included the bulk of crimes against property, including robbery and misuse of the mails, counterfeiting, cutting timber on United States land, and breaking into federal buildings. Like most criminal filings in Hoffman's court, these cases were increasingly prosecuted, beginning in the late 1870s (see Table 3).

In a number of criminal prosecutions arising under federal statutes, most, if not all, of the United States attorneys' filings for certain crimes, such as the illegal sale and distribution of liquor and the sale of naturalization certificates, resulted in *nolle prosequi* (see Table 15). These dismissals largely reflected a decision to prosecute that was later retracted. Nonetheless, the United States attorneys experienced considerable success in obtaining convictions for revenue violations, notably against Chinese defendants.

Prosecutions against non-Chinese and Chinese for revenue violations dealing with the sale and manufacture of cigars and matches present a telling comparison. Between 1879 and the end of 1882, over six hundred cases were filed for such violations; Chinese were the defendants in nearly 70 percent of them (see Table 16). Chinese defendants were convicted more than twice as often as non-Chinese (50 percent to 22 percent), and were far less apt to have a *nolle prosequi* entered in their case (22 percent to 46 percent).

More surprising, however, was the greater willingness of Chinese than non-Chinese defendants to go to trial, and their higher rates of acquittal by juries. While non-Chinese defendants pleaded guilty 20 percent of the time, Chinese defendants

did so approximately half as often. An analysis of the cases vindicates the Chinese choice: the acquittal rate for Chinese defendants was 5 percent higher than for non-Chinese (17 percent to 12 percent). Thus, despite their high conviction rate, going to trial meant that a significant number of Chinese defendants avoided the sentences they would have faced by pleading guilty. Nonetheless, the effort to prosecute the Chinese, and their higher acquittal rate, suggests that the United States attorney may have pursued Chinese defendants even in weak cases. If non-Chinese defendants and their lawyers hoped for more lenient sentences by entering guilty pleas, they were disappointed. Hoffman imposed the same sentences whether the jury returned a verdict of guilty or the defendant pleaded guilty.²⁵

The final category of statutory crimes involved violations of process of court, which constituted only 5 percent of the total number of criminal cases filed. Nearly 90 percent of this category involved perjury, resisting federal authority, or defaulting jurors or witnesses. Most of these prosecutions occurred in the 1880s. Many of the cases—especially those dealing with perjury and defaulting jurors and witnesses—appear to have been filed not necessarily for convictions, but as a means of discouraging any unethical behavior on the part of the parties to litigation before the federal court.

As with the private admiralty docket, criminal cases often went to trial. For criminal prosecutions within admiralty, those arising under federal statutes, and violations of process of court, the cases went to trial 76, 47, and 21 percent of the time, respectively (see Table 17). Overall, the trial rate was 50 percent, which meant that Hoffman held nearly fifteen hundred criminal trials. Even with relatively short trials, their number—compressed within roughly the last decade of Hoffman's judgeship—involved much extra work for the northern district's judge.

The cases filed against sailors, ship captains, and their officers represent virtually all the so-called crimes against the person found in Hoffman's criminal docket. Comparing the sentences for such crimes with those for crimes against property suggests the relative value placed on human life versus property, particularly when contrasted with state practice. Lawrence Friedman and Robert Percival have studied criminal prosecutions in the San Francisco Bay Area county of Alameda

²⁵United States District Court, Northern District of California, Criminal Case Files, 2d Series, 689-1649 *passim*, RG 21, NA [hereafter cited as *Crim. Cases*, 2d Ser.].

between 1870 and 1910. Their findings indicate that sentences imposed by state judges followed the statutory range of penalties, with murder, manslaughter, robbery, and deadly assaults receiving the longest sentences. On the other hand, shorter sentences were imposed for such crimes as burglary, forgery, and embezzlement. Convictions for manslaughter in state court brought an average sentence of nearly eight years, while assaults with a deadly weapon resulted in average sentences of three years.²⁶

While Hoffman's court experienced a substantially narrower range of crimes, the federal court criminal docket shows a rather different pattern. Sentences for similar crimes tried before federal district court were substantially less harsh than sentences imposed by state courts. The stiffest penalty for a manslaughter conviction in Hoffman's court was a two-year sentence. Moreover, captains served little more than two and a half months on average for deadly assaults, and in many cases they and their officers faced only modest fines.

An even greater disparity existed within Hoffman's criminal docket between sentences for crimes against the person and those against property. While the unlucky sailor convicted of assaulting his superior officer with a knife formed a singular exception by receiving five years at hard labor, people convicted of possessing, passing, or manufacturing counterfeit money routinely faced three to six years' hard labor in state prisons, in addition to paying, on occasion, fines of up to five hundred or one thousand dollars. Forgery of money orders or United States bonds brought equally high sentences. John T. Best, a clerk for the government engineer in charge of a California lighthouse district, was caught forging an office voucher for \$9,500. Hoffman sentenced him to ten years at hard labor in San Quentin.²⁷

Theft, burglary, and robbery also brought high penalties compared with sentences for shipboard violence and maltreatment. Postal clerks convicted of stealing letters faced from one to six years in prison. In 1883 Fred Wright got a year's hard labor in San Quentin for removing a five-dollar "greenback" from a letter, while eight years later "Julius Caesar" received the same sentence for breaking into the appraiser's building to steal four pairs of shoes. Robbery of the United States mails, moreover, brought the heaviest sentences Hoffman imposed:

²⁶Friedman and Percival, *Roots of Justice*, supra note 24 at 206-210.

²⁷For counterfeiting cases, see *Crim. Cases*, 2d Ser., supra note 25 at 731-32, 832, 858, 1017, 1023, 1214, 1264, 1420, 1805, 1840, 2015, 2262-63, 2573, 2645-46, and 2722-23; for forgery cases, see *Crim. Cases*, 2d Ser., 1369, 2619, and 2777; *U.S. v. Best*, *Crim. Cases*, 2d Ser., 1499.

between three and ten years, and on one occasion a life sentence, at hard labor (to be served in the state prison at Folsom, since a federal penitentiary was not available). Even such crimes as sending obscene materials through the mails (in this case, information on contraception), false voter registration, and selling liquor to Indians brought heavy sentences compared with crimes against the person.²⁸

The conclusion suggested by a comparison of criminal sanctions imposed by Hoffman is that he regarded attacks on property as more serious than those against sailors or even officers. To some degree, this attitude merely reflects federal criminal statutes prescribing a range of penalties and, in that sense, coincides with findings by Friedman and Percival. Nevertheless, federal judges, like their state counterparts, enjoyed considerable discretion in imposing sentences, given a wide range of possible sanctions for a crime. That Hoffman felt willing on one occasion to punish a sailor convicted of assault with a deadly weapon with five years at hard labor underscores his far greater leniency in most cases except for those against property. Given the state court experience of Alameda County, it may be that his relatively light sentences for assaults, beatings, and even manslaughter were due less to a lack of shared values between the state and federal courts than to the specific context of such crimes.

Hoffman's criminal docket also demonstrates the independence enjoyed by nineteenth-century federal prosecutors. The Judiciary Act of 1789 gave the attorney general no authority to supervise or direct United States attorneys; such authority came only with the creation of the Department of Justice in 1870. Before that, and even afterward, numerous federal departments sought to maintain control over the conduct of their litigation through communications to local federal prosecutors. Yet, before 1870, the only official grant of supervisory power over United States attorneys went to the Treasury Department. This lack of centralized administrative supervision, and Hoff-

²⁸For postal theft, see *Crim. Cases*, 2d Ser., *supra* note 25 at 1207, 1757, 2007, 2545, 2716-17, and 2731; *Crim. Cases*, 2d Ser., *U.S. v. Wright*, 1757, and *U.S. v. "Julius Caesar,"* 2759. For robbery, see *Crim. Cases*, 2d Ser., 1912, 2697, 2735, and 2743. See also 910 (four years in state prison for stealing gold from the San Francisco Mint) and 1962 (four years at hard labor for breaking into a post office). The individual convicted of misusing the mails received two years at hard labor in San Quentin, see *Crim. Cases*, 2d Ser., 2659. The standard penalty for false voter registration was a five-hundred-dollar fine and three years in county jail; see *Crim. Cases*, 2d Ser., 1906-8, 1935, and 1938.

Persons convicted of selling liquor to Indians routinely faced fines of between fifty and one hundred dollars and county jail terms from several months to one year; see *Crim. Cases*, 2d Ser., 1398, 1401, 1440, 1503-4, 1566, 1568, 1577-78, 1788-92, and 1860.

man's understanding of his limited role in controlling the work of United States attorneys, largely explains the dynamics of federal prosecution in the northern district.²⁹

The financial inducements for federal officials, including United States attorneys, provide only one possible reason certain cases were filed in Hoffman's court. A variety of other pressures, some public and some private, help account for what cases were prosecuted, as do the demands placed on the United States attorneys to deal with noncriminal matters. The most striking aspects of the statistics of Hoffman's criminal docket over forty years are the fluctuations, cycles, and gaps in criminal prosecution. Actual crime and criminal violations are unlikely to have remained constant during the period, but, by the same token, they hardly disappeared for years at a time or suddenly reappeared, as the statistics might imply. Instead, we can see the dynamic and discretionary nature of federal criminal prosecution in the nineteenth century. The quality of criminal justice in the northern district rested as much on the conscientiousness and integrity of its various United States attorneys as it did on Judge Hoffman.

Evaluating the significance of the lower federal courts in the nineteenth century requires a better understanding of how those courts functioned, what business they did, who used them, and with what results. This study is a preliminary step in that direction, and presents data on the history of one district court. While it would be premature to claim that the findings for the northern district hold true for the rest of the federal judiciary, they are, nonetheless, quite suggestive. The court in California may have been unique in some respects, but it probably had much in common with many other district courts.

The range of subject matter and the variety of litigants in Hoffman's admiralty docket suggests that we may have underestimated the importance of nineteenth-century federal trial courts. Hoffman's court, for example, was a major commercial court in the state's most important city, of use to and valued by businessmen as well as sailors and passengers on vessels. The commercial importance of water transportation in the nineteenth century underscores the role that the admiralty courts played in American economic history, especially as federal admiralty jurisdiction expanded.

Moreover, the usefulness of Hoffman's court to so many different types of plaintiffs who used his court—largely with

²⁹See James Eisenstein, *Counsel for the United States* (Baltimore, 1978), 9-10; John C. Heinberg, "Centralization in Federal Prosecutions," *Missouri Law Review* 15 (1950), 244-58.

success—requires a reexamination of theories that suggest that law primarily developed and courts largely operated in the nineteenth century in ways to promote commercial and entrepreneurial interests. The cases filed and resolved in the northern district indicate that the relationship between law and economics in the period is more complex and dynamic than some scholars have depicted.³⁰ Theories of law and society and broad interpretations are important to our growing understanding of American legal history, but such ideas must incorporate law in action historically, including the actual practice of law in the courts. With such comparison and incorporation, it will be possible to increase our comprehension of the role of law in nineteenth-century America.

³⁰See, for example, Morton J. Horwitz, *The Transformation of American Law, 1780-1860* (Cambridge, Mass., 1977).

TABLE 1
CASES FILED IN ALL DOCKETS, 1851-1891

Docket	Number of Cases Filed	Percent of Total
Private Admiralty (Chinese habeas corpus)	7,080	37%
Criminal docket	2,937	16%
Private Admiralty	2,931	15%
Bankruptcy	2,598	14%
United States Admiralty	1,372	7%
Bond cases	1,147	6%
Common law and equity	486	3%
Private land grants	458	2%
Total	19,009	100%

TABLE 2
CASES FILED IN ALL DOCKETS, 1851-1891

Year	Percent of Total	Year	Percent of Total	Year	Percent of total
1851	795 (4%)	1865	238 (1%)	1879	443 (2%)
1852	351 (2%)	1866	338 (2%)	1880	289 (2%)
1853	604 (3%)	1867	442 (2%)	1881	283 (2%)
1854	543 (3%)	1868	764 (4%)	1882	229 (1%)
1855	428 (2%)	1869	493 (3%)	1883	352 (2%)
1856	174 (1%)	1870	316 (2%)	1884	574 (3%)
1857	74 (—)	1871	318 (2%)	1885	649 (3%)
1858	84 (—)	1872	315 (2%)	1886	689 (4%)
1859	126 (1%)	1873	345 (2%)	1887	1,353 (7%)
1860	48 (—)	1874	271 (1%)	1888	3,468 (18%)
1861	54 (—)	1875	266 (1%)	1889	475 (3%)
1862	49 (—)	1876	378 (2%)	1890	1,158 (6%)
1863	118 (1%)	1877	409 (2%)	1891	99 (1%)
1864	147 (1%)	1878	460 (2%)	Total	19,009 (100%)

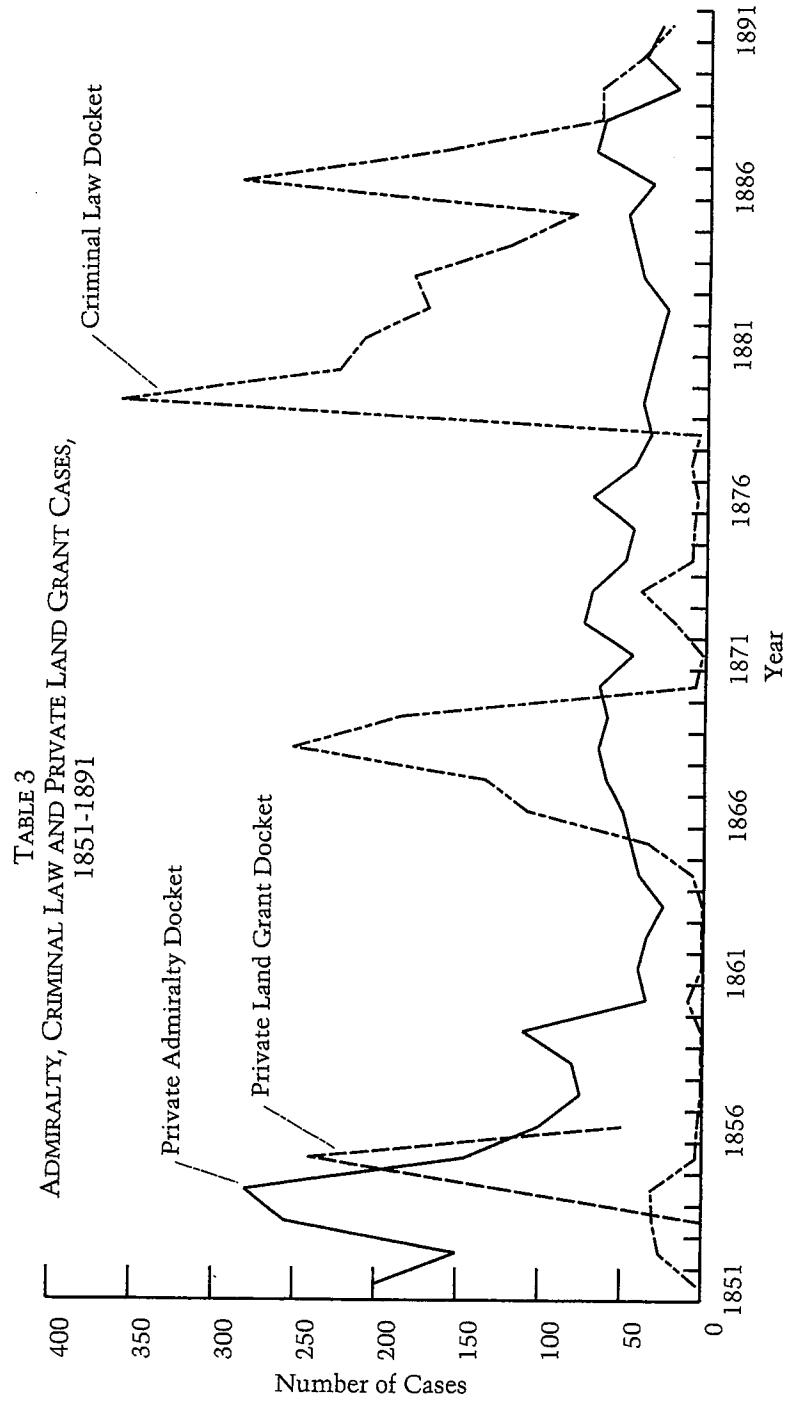


TABLE 4
BANKRUPTCY AND CHINESE HABEAS CORPUS CASES, 1867-1891

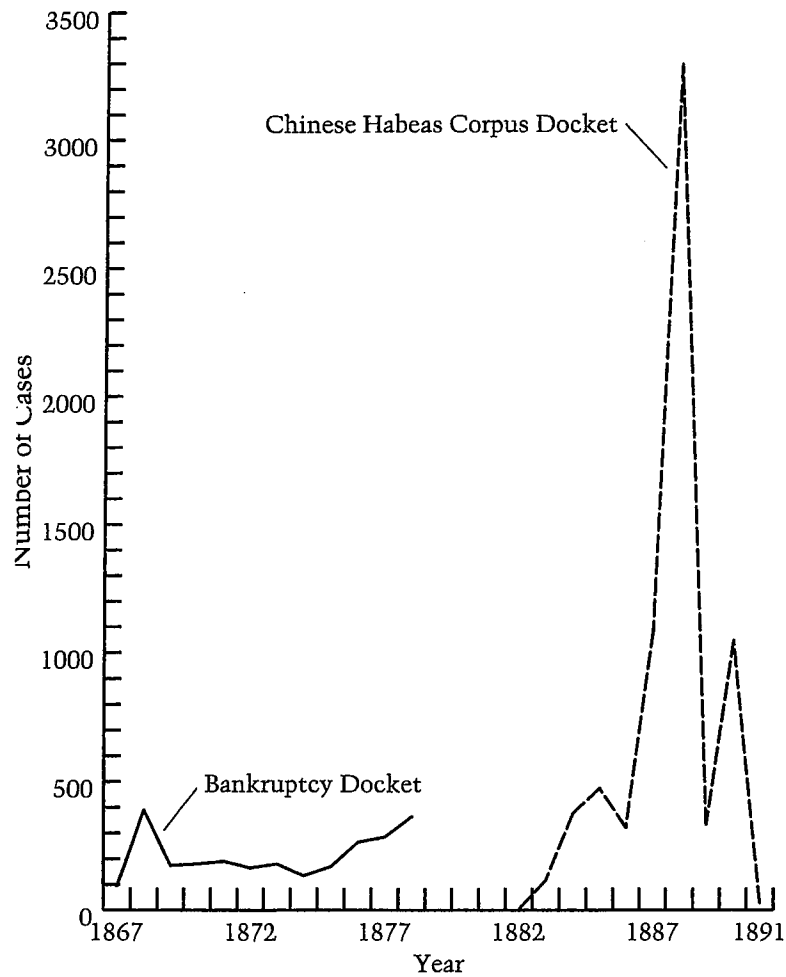


TABLE 5
PRIVATE ADMIRALTY, SUBJECT MATTER, 1851-1891

Subject	Number	Percent
Sailors' wages	1,035	35%
Breach of contract of affreightment	434	15%
Libel for labor	169	6%
General average	7	—
Libel for supplies	329	11%
Bottomry bond	47	2%
Money advanced	78	3%
Wharfage	31	1%
Possession	67	2%
Pilotage/towage	135	5%
Salvage	123	4%
Breach of passenger contract	125	4%
Collision	136	5%
Marine tort	125	4%
Miscellaneous tort or contract	90	3%
Total	2,931	100%

TABLE 6
PRIVATE ADMIRALTY, DISPOSITION OF LITIGATION, 1851-1891

Litigants	Decree for Plaintiff	Decree for Defendant	Case Settled	Case Abandoned	Disposition Uncertain	Totals
Seamen *	332 (32%)	89 (9%)	472 (46%)	55 (5%)	87 (8%)	1,035 (100%)
Businessmen **	565 (36%)	185 (12%)	613 (39%)	26 (2%)	167 (11%)	1,556 (100%)
Passengers ***	60 (48%)	25 (20%)	31 (24%)	2 (2%)	7 (6%)	125 (100%)

*Libels for wages

**Commercial litigation was defined to include the following categories of libels: breach of contract of affreightment, libel of labor, general average, libel for supplies, bottomry bonds, money advanced, wharfage, possession, pilotage/towage, salvage, and collision.

***Libels for breach of passenger contract.

TABLE 7
PRIVATE ADMIRALTY, DISPOSITION OF COMMERCIAL LITIGATION, 1851-1891

Commercial Litigation	Decree for Plaintiff	Decree for Defendant	Case Settled	Case Abandoned	Disposition Uncertain	Totals
Breach of contract	142 (33%)	61 (14%)	176 (41%)	5 (1%)	50 (11%)	434
of affreightment	65 (38%)	15 (9%)	71 (42%)	2 (1%)	16 (10%)	169
Libel for labor	2 (28%)	3 (43%)	—	—	2 (29%)	7
General average	127 (38%)	16 (5%)	144 (44%)	9 (3%)	33 (10%)	329
Libel for supplies	38 (80%)	4 (9%)	4 (9%)	—	1 (2%)	47
Bottomry bond	37 (47%)	11 (14%)	23 (30%)	2 (3%)	5 (6%)	78
Money advanced	13 (42%)	2 (6%)	11 (36%)	—	5 (16%)	31
Wharfage	15 (22%)	11 (16%)	32 (48%)	1 (2%)	8 (12%)	67
Possession	20 (15%)	26 (19%)	76 (56%)	3 (2%)	10 (7%)	135
Pilotage/Towage	59 (48%)	13 (11%)	33 (27%)	2 (1%)	16 (13%)	123
Salvage	47 (35%)	23 (17%)	43 (32%)	2 (1%)	21 (15%)	136
Collision	565 (36%)	185 (12%)	613 (39%)	26 (2%)	167 (11%)	1,556

TABLE 8
PRIVATE ADMIRALTY, TRIAL RATES, 1851-1891

Litigation	Percent of Cases Going to Trial
Sailors' wages	41%
Breach of passenger contract	68%
Marine tort	37%
Commercial Litigation:	
Breach of contract	
of affreightment	47%
Libel for labor	47%
General average	71%
Libel for supplies	44%
Bottomry bond	90%
Money advanced	62%
Wharfage	49%
Possession	39%
Pilotage/towage	34%
Salvage	59%
Collision	52%
Subtotal Average	48%
Private Admiralty Average	45%
	(1,330)

TABLE 9
PRIVATE ADMIRALTY, CHINESE HABEAS CORPUS CASES,
1882-1891

Year	Percent of Total
1882	4 (—)
1883	116 (1%)
1884	376 (5%)
1885	475 (7%)
1886	321 (5%)
1887	1,083 (15%)
1888	3,297 (47%)
1889	332 (5%)
1890	1,046 (15%)
1891	30 (—)
Total	7,080 (100%)

TABLE 10
COMMON LAW AND EQUITY CASES, SUBJECT MATTER, 1851-1891

Subject	Number and Percent of Cases Filed
Bankruptcy	233 (48%)
Contract	67 (14%)
Land	53 (11%)
Action to recover duties	42 (9%)
Breach of passenger contract	34 (7%)
Tort	22 (5%)
Miscellaneous equitable relief	13 (3%)
Transfer to circuit court	7 (1%)
Uncertain	7 (1%)
Action for a penalty	6 (1%)
Patent/Copyright	2 (—)
Total	486 (100%)

TABLE 11
CRIMINAL CASES, SUBJECT MATTER, 1851-1891

Type	Number	Percent of All Criminal Cases
I. Crimes within Admiralty	470	16%
II. Crimes arising under federal statutes	2,333	79%
A. Maritime matters*	29	1%
B. Revenue matters**	1,522	52%
C. Violation of other federal statutes***	782	27%
III. Violations of Process of Court (federal authority)****	134	4%
Total	2,937 (I-III)	100%

*For example, excess number of passengers or fraudulent ship's registry

**For example, failure to pay business tax or license or the illegal sale or distribution of liquor

***For example, the misuse or robbery of the mail or counterfeiting

****For example, perjury or resisting federal authority

TABLE 12
CRIMINAL CASES, 1851-1891

Year	Percent of Total	Year	Percent of Total
1851	3 (—)	1872	19 (1%)
1852	26 (1%)	1873	40 (1%)
1853	30 (1%)	1874	9 (—)
1854	31 (1%)	1875	8 (—)
1855	4 (—)	1876	6 (—)
1856	3 (—)	1877	10 (—)
1857	0	1878	5 (—)
1858	1 (—)	1879	360 (12%)
1859	1 (—)	1880	226 (8%)
1860	9 (—)	1881	211 (7%)
1861	0	1882	172 (6%)
1862	0	1883	181 (6%)
1863	0	1884	122 (4%)
1864	7 (—)	1885	82 (3%)
1865	34 (1%)	1886	287 (10%)
1866	108 (4%)	1887	162 (6%)
1867	134 (5%)	1888	67 (2%)
1868	252 (9%)	1889	67 (2%)
1869	186 (6%)	1890	42 (1%)
1870	6 (—)	1891	24 (1%)
1871	2 (—)	Total	2,937 (100%)

TABLE 13
CRIMES WITHIN ADMIRALTY, SUBJECT MATTER, 1851-1891

Crimes within Admiralty	Number and Percent of Cases Filed
Beatings (of sailors)	199 (42%)
Assault with dangerous weapon	81 (17%)
Mutiny (denying captain's authority)	58 (12%)
Cruel and unusual treatment (of sailors)	44 (10%)
Desertion	30 (7%)
Failure to go to sea	21 (5%)
Larceny/conversion/ receiving stolen goods	15 (3%)
Manslaughter	10 (2%)
Murder	6 (1%)
Other	6 (1%)
Total	470 (100%)

TABLE 14
DISPOSITION OF CRIMES WITHIN ADMIRALTY, 1851-1891

Crimes within Admiralty	Acquittal	Conviction	<i>Nolle Prosequi</i>	Total
Beatings (of sailors)	67 (34%)	94 (47%)	38 (19%)	199 (100%)
Assault with dangerous weapon	16 (20%)	44 (54%)	21 (26%)	81 (100%)
Mutiny (denying captain's authority)	14 (24%)	33 (57%)	11 (19%)	58 (100%)
Cruel and unusual treatment (of sailors)	19 (43%)	17 (39%)	8 (18%)	44 (100%)
Desertion	4 (13%)	12 (40%)	14 (47%)	30 (100%)
Failure to go to sea	5 (24%)	15 (71%)	1 (5%)	21 (100%)
Larceny/conversion/receiving stolen goods	0 (0%)	6 (40%)	9 (60%)	15 (100%)
Manslaughter	6 (60%)	1 (10%)	3 (30%)	10 (100%)
Murder	1 (17%)	1 (17%)	4 (67%)	6 (100%)
Other	1 (17%)	0 (0%)	5 (83%)	6 (100%)
Total	133 (28%)	223 (47%)	114 (24%)	470 (100%)

TABLE 15
DISPOSITION OF CRIMES ARISING UNDER FEDERAL STATUTES, 1851-1891

A. Maritime Matters				
	Acquittal	Conviction	<i>Nolle Prosequi</i>	Total
Excess number of passengers	2 (8%)	13 (54%)	9 (38%)	24
Fraudulent ship's registry	0 (0%)	2 (67%)	1 (33%)	3
Excessive steam pressure	1 (100%)	0 (0%)	0 (0%)	1
Other	0 (0%)	1 (100%)	0 (0%)	1
Total	3 (10%)	16 (55%)	10 (35%)	29
B. Revenue Matters				
Failure to pay business tax/license	106 (10%)	548 (51%)	412 (39%)	1,066
Illegal sale/distillation of liquor	9 (3%)	14 (5%)	249 (92%)	272
Smuggling opium	17 (12%)	90 (63%)	35 (25%)	142
Assessor's failure to make returns	1 (6%)	0 (0%)	16 (94%)	17
Fraudulent customs invoice	1 (11%)	0 (0%)	8 (89%)	9
False income returns	3 (33%)	1 (11%)	5 (56%)	9
Impersonating revenue agent	0 (0%)	3 (50%)	3 (50%)	6
Other	0 (0%)	1 (100%)	0 (0%)	1
Total	137 (9%)	657 (43%)	728 (48%)	1,522

TABLE 15
DISPOSITION OF CRIMES ARISING UNDER FEDERAL STATUTES, 1851-1891
(CONTINUED)

C. Violation of Other Federal Statutes	Acquittal	Conviction	<i>Nolle Prosequi</i>	Total
Sales of naturalization certificates	1 (—)	0 (0%)	200 (100%)*	313
Misuse/robbery of mails	22 (22%)	46 (45%)	34 (33%)	102
Counterfeiting	21 (22%)	55 (57%)	20 (21%)	96
False voter registration	11 (12%)	12 (13%)	71 (76%)	94
Selling liquor to Indians	12 (17%)	44 (62%)	15 (21%)	71
Cutting U.S. timber	2 (4%)	16 (33%)	31 (63%)	49
Other	3 (14%)	5 (23%)	14 (64%)	22
Chinese related**	10 (43%)	4 (17%)	9 (39%)	23
Breaking into federal buildings	1 (14%)	6 (86%)	0 (0%)	7
Violation of neutrality laws	1 (20%)	3 (60%)	1 (20%)	5
Total	84 (11%)	191 (24%)	395 (51%)	782

* An additional 112 cases involving naturalization certificates were transferred to the circuit court.

**Importation of prostitutes or false use of entry certificates

TABLE 16
DISPOSITION OF CRIMES RELATING TO THE SALE AND MANUFACTURE OF CIGARS AND MATCHES, 1879-1882

Chinese Defendants	Conviction	Acquittal	Guilty Plea	<i>Nolle Prosequi</i>	Total Number of Prosecutions
1879	75	21	15	30	141
1880	61	22	5	34	122
1881	47	23	10	20	100
1882	29	6	14	8	57
Totals	212 (50%)	72 (17%)	44 (11%)	92 (22%)	420 (100%)
Non-Chinese Defendants					
1879	18	9	16	49	92
1880	13	6	2	13	34
1881	8	5	7	11	31
1882	2	3	12	15	32
Totals	41 (22%)	23 (12%)	37 (20%)	88 (46%)	189 (100%)

TABLE 17
CRIMINAL CASES, TRIAL RATES, 1851-1891

Category	Number	Number and Percent Going to Trial Within Category
I. Crimes within Admiralty	470	356 (76%)
II. Crimes arising under federal statutes	2,333	1,088 (47%)
A. Maritime matters	29	19 (65%)
B. Revenue matters	1,522	794 (52%)
C. Violation of other federal statutes	782	275 (35%)
III. Violations of Process of Court	134	28 (21%)
Total (I-III)	2,937	1,472 (50%)

A review by Philip Merkel of Christian Fritz's recent book on the court of Ogden Hoffman appears in the book-review section of this issue.