

23-2

**MINUTES OF ANNUAL MEETING OF MARITIME LAW
ASSOCIATION, HELD AT THE ASSOCIATION
OF THE BAR, 42 WEST 44th STREET,
MAY 5, 1922, AT 2 P. M.**

The annual meeting of the Maritime Law Association of the United States was held at the Association of the Bar of the City of New York, 42 West 44th Street, New York City, May 5th, 1922, at 4 P. M.

Those present at the meeting were the President, Hon. Charles M. Hough, the Secretary, Harold S. Deming, and the following members:

Horace T. Atkins	O. R. Houston
G. W. Betts, Jr.	T. Catesby Jones
William H. Blymyer	Mark W. Maclay, Jr.
Pierre M. Brown	Karl S. Mayhew
C. C. Burlingham	Courtlandt Palmer
H. L. Cheney	Frederick Pennell
John W. Crandall	Harrington Putnam
W. J. Dean	George C. Sprague
Allen Evarts Foster	J. Frank Staley
	Van Vechten Veeder

The reading of the minutes of the preceding meeting was omitted on unanimous consent, the same having been printed and distributed to members.

The Secretary and Treasurer submitted his annual reports and, there being no objection, the same were received, approved and ordered filed, and copies of the same are annexed (Appendices I and II, pages 1157 and 1159).

The Honorable Van Vechten Veeder, as Chairman of the Nominating Committee, presented the following nominations for officers and members of the Executive Committee:

President

Charles M. Hough

Secretary and Treasurer

Harold S. Deming

Executive Committee

Edward E. Blodgett

Charles E. Hickox

Floyd Hughes

Russell H. Loines

Mark W. Maclay

George H. Terriberry

Archibald G. Thacher

H. Alan Dawson

On motion duly made and seconded the nominations were declared closed and the Secretary directed to cast one ballot for the foregoing nominees, who were thereupon duly elected for the ensuing year.

The following new members were duly nominated and elected at the meeting:

Perry Allen Beck

Francis B. Goertner

William E. Masterson

Henry B. Potter

George S. Brengle

Joseph W. Henderson

Glen R. Snider

Henry P. Elliott

The Honorable Harrington Putnam then presented to the meeting the following minute upon the death of Mr. Herbert Green:

A MINUTE VOTED AT A MEETING OF THE MARITIME LAW
ASSOCIATION OF THE UNITED STATES ON
MARCH 10, 1922.

Herbert Green.

On March 5, 1922, Mr. Herbert Green died at his Brooklyn residence after an illness of but two days. He was born in Brooklyn on May 17, 1853, the son of Samuel Worcester and Cornelia (Wilcox) Green.

Having fitted at Phillips-Exeter Academy, he entered Harvard and graduated in 1876, which was followed by the course in the Harvard Law School, where he sat under Langdell and Thayer. Receiving the LL.B. degree in 1878, he was admitted to the state Bar on September 12, 1879. His practice soon extended into the United States courts, where he specialized in admiralty. In 1891 he entered the firm of Wilcox, Adams & Green, which ten years later was dissolved by Judge Adams' appointment to the District Court. On January 4, 1902, Mr. Green was made United States Commissioner, an office which he admirably filled over twenty years, having been honored by four reappointments from successive judges. By experience and mental habit he was well fitted for judicial admiralty work. Patient in taking proofs, conscientious in investigation, his reports were promptly made, with clear findings explained by short but adequate opinions. Dates for his hearings he punctually kept; even in summer his vacation absences never embarrassed suitors. His moderation in charges saved the proceedings before him from that reproach of undue expense which has sometimes attached to references in other jurisdictions. Proper adjustment of admiralty damages often depends on familiarity with commercial affairs and port usages. It is to insure such a business judgment in England that the registrar sits with merchants, and may be aided by a Trinity master. Mr. Green possessed these qualifications in a high degree; whether weighing opposing testimony or passing upon consequential claims, more or less remote, his common sense was a safe guide. In these twenty years his chambers came to seem almost one of the parts of the federal court. His death will be felt as a great loss not only here in New York, but in the wider circle of this association.

On motion duly made and seconded, the minute was ordered spread upon the minutes of the meeting and a copy sent to the widow of Mr. Green by the Secretary.

The Secretary read the following letter sent by the President to Honorable Herbert Hoover, Secretary of Commerce of the United States, in accordance with the instructions of the Association at the previous meeting:

“Hon. Herbert Hoover,
Secretary of Commerce,
Washington, D. C.

Sir:

It having been brought to the attention of the Maritime Law Association of the United States that the International Conference on Maritime Law might be reconvened at Brussels during the present year, and that two of the subjects which would be brought before the Conference would be the draft conventions, or *projets*, on ship owners' liability and maritime mortgages and liens, a special meeting of our Association was called to consider the subjects, with a view to offering to our Government remarks and suggestions on the proposed drafts.

As you are perhaps aware, our Association includes in its membership almost all the admiralty lawyers of the United States, together with a considerable number of marine underwriters and ship owners interested in maritime law.

A special meeting was held on February 10th last. The committee appointed by the President of the Association at this meeting prepared a report, which was printed and submitted to all the members of the Association and came up for consideration at a special meeting held March 10th. The meeting was largely attended, and the report was thoroughly discussed. It was the unanimous view of the Association that the United States should be represented at the Brussels International Maritime Conference. It was further unanimously resolved that the proposed treaty regarding hypothecations and privileges (liens) on vessels would not be acceptable in the United States, and that this Association dissents from such projected treaty, both in principle and in detail.

With regard to the proposed treaty on limitation of ship owners' liability, the following resolution was adopted by the Association:

'RESOLVED, that the Maritime Law Association favors the plan now before the International Maritime Conference to bring about uniformity in the law with respect to limitation of ship owners' liability in the various maritime countries of the world, and recommends that delegates from the United States attend the proposed Brussels Conference in 1922 for further consideration of the details of the Convention to be adopted to that end; provided, however, that it is the sense of this meeting that the delegates should be instructed to state to the conference that the Government of this country is opposed to the draft Convention heretofore adopted by the Sub-Committee in so far as this draft gives to the ship owner the option of selecting one or the other of two different measures of limitation according as one or the other may be most favorable to him.'

I have been directed to communicate to you the action of the Association on the two proposed treaties and to inform you that we are desirous of rendering any assistance to our Government within our power in respect of these important matters.

If you desire, a representative of the Association will be glad to call upon you and explain in detail the considerations which have moved us to the conclusions expressed in the formal resolution.

With great respect,

Very truly yours,

CHARLES M. HOUGH."

The Secretary then read to the meeting the following questionnaire received from the International Maritime Committee concerning the immunity of sovereign owners with regard to maritime property, and also submitted for the consideration of the members the note by the Honorable Mr. Justice Hill upon the same question. The note is attached to these minutes as Appendix III, page 1161.

INTERNATIONAL MARITIME COMMITTEE

Nr 49.

Antwerp, 31st March 1922.
30, Rue des Escrimeurs

Dear Sir,

Immunity of Sovereign States as regards Maritime property.

We have to advise that the Agenda of our next London Conference will include a new question viz. that of the immunity of Sovereign States as regards maritime property.

This property is considered in some legislations as being immune from the ordinary rules of jurisdiction and arrest. This immunity not only applies to warships or to vessels engaged in a State service but even to ships engaged in trade.

These principles are not applied in a general way. Serious conflicts of laws consequently arise and differences of treatment accrue which damage greatly private interests, according to the law which is applied to each separate case.

It seems desirable to put an end to these discrepancies and as the Governments are directly interested, only an International agreement will be efficient.

We enclose a learned memorandum which the Hon. Mr. Justice Hill has written for the International Maritime Committee; interesting information will be found therein concerning the English law.

Kindly give us your opinion as to the following questions:

- 1° Does your State own any vessels:
 - a) employed by the State for war purposes only;
 - b) employed by the State partly for purposes of war and partly for commercial or other purposes of peace;
 - c) employed by the State for commercial or other purposes of peace only;
 - d) employed by private persons under charter or otherwise?
- 2° Does your State employ for public services vessels which are privately owned?
- 3° Does the law in your country confer any immunity on:

a) vessels State owned as mentioned above 1°, a, b, c, and d, or

b) vessels privately owned but employed by the State as mentioned above under 2°?

4° If any such immunity is conferred:

a) how far does it extend;

b) in what manner is it claimed;

c) upon what principle is it based?

Could you give instances in the manner as set out in the accompanying note by the Honourable Mr. Justice Hill?

5° If any such immunity is recognised are you in favour of its abolition or modification as to either:

a) war vessels, or

b) any of the other vessels mentioned in questions 1 and 2 above?

6° Does your State claim any immunity in respect of maritime liabilities as to cargoes which are either:

a) State owned, or

b) privately owned and carried by the State?

7° Is any further or other immunity such as exemption from the operation of national revenue laws or any part thereof, conferred by the law of your country upon any of the above vessels trading from or to the shores of your country?

8° Have you any further observations to offer on this subject?

Yours truly,

THE PERMANENT BUREAU:

The Vice-Presidents,
Albert Le Jeune,
Leslie Scott.

The President,
Louis Franck.

The General Secretaries,

Léon Hennebicq, George P. Langton, Frédéric Sohr.

Upon motion duly made and seconded, it was

RESOLVED that the Executive Committee be empowered to appoint a delegate or delegates of the Association to the approaching London Conference of the International Maritime Committee.

Upon motion duly made and seconded, the President was authorized to appoint a committee of three (in addition to himself as chairman *ex officio*) to formulate on behalf of the Association replies to the questions of fact and law propounded in Mr. Justice Hill's questionnaire; the replies when completed to be forwarded to the International Maritime Committee. In accordance with this authority the President appointed James K. Symmers, Russell T. Mount and J. Frank Staley as members of the committee.

At the suggestion of the President the members present then took part in a general discussion of the question of immunity of sovereign owned maritime property. The President then suggested the adoption of the following resolution:

RESOLVED that it is the sense of this Association that vessels belonging to a sovereign, engaged only in Governmental and non-commercial work, should not be subject to attachment or other legal process, either in tort or contract, but the sovereign should be suable in personam in the appropriate municipal courts of the sovereign without special Governmental action; but that it is the sense of this meeting that all Government-owned or operated, vessels regularly or temporarily engaged in commercial or profit-earning occupations should be subject to suit, and to the creation and enforcement of maritime liens, in like manner as are vessels privately owned under the maritime law of the sovereign owner.

After a full discussion, upon motion duly made and seconded, the foregoing resolution was duly carried.

There being no further business to come before the meeting, upon motion duly made and seconded, the meeting adjourned.

HAROLD S. DEMING,
Secretary.

Appendix I.

ANNUAL REPORT OF SECRETARY.

MARITIME LAW ASSOCIATION OF THE UNITED STATES.

HAROLD S. DEMING, as Secretary of the Maritime Law Association of the United States, submits his report for the year ending April 30, 1922, as follows:

There have been three meetings of the Association during the year as follows:

Annual Meeting, May 7, 1921;

Usual Winter Meeting, February 10, 1922;

Special Meeting, March 10, 1922.

As reported to the Secretary, our roll of Associate Members for the year has been depleted by the death of Hon. John M. Warrington May 25, 1921, and our active list by the death of Messrs. Frank S. Masten, Herbert Green and J. Walter Lord. The resignation of Mr. Van Iderstine Robb was accepted as of May 18, 1921, and Associate Members Hon. Martin Gillan and Charles R. Paige, both of the United States Shipping Board, were dropped in February, 1922.

The resignation of Mr. A. Gordon Murray as Secretary and Treasurer was regretfully accepted as of January 10, 1922; and his resignation from membership in the Association as of April 12, 1922. The Association is deeply in debt to Mr. Murray for his many years of faithful service, not only in routine matters, but in the active and effective prosecution of the most important projects of the Association.

Our active membership has been increased by the addition of 35 members during the year and our associate membership by the addition of 6 members—Hons. Frederick L. Thompson, George E. Chamberlain, T. V. O'Connor, Alfred D. Lasker, Myer Lessner and Edward C. Plumer, all of the United States Shipping Board, Washington, D. C. The present membership shows

226 active members and 37 associate members, making a total of 263 members as compared with a total of 230 members last year.

In view of the full printed reports of the meetings already distributed to the members, no further detailed reference seems necessary to the accomplishments of the Association during the year. It is sufficient to point out that the Association's meetings during the year have been more fully attended, and its projects more actively discussed and prosecuted, than during any earlier period.

Respectfully submitted,

HAROLD S. DEMING,
Secretary.

Appendix II.**ANNUAL REPORT OF TREASURER.**

TO THE MARITIME LAW ASSOCIATION OF THE UNITED STATES:

Harold S. Deming, as Treasurer of the Maritime Law Association of the United States, submits his annual report for the year ending April 30, 1922, as follows:

RECEIPTS:

January 10, 1922:

Balance received from former Treasurer A. Gordon Murray, as per report attached	\$	846.48	
Dues received:			
Year 1917-18 from 1 member....	5.00		
Year 1918-19 from 1 member....	5.00		
Year 1919-20 from 1 member....	5.00		
Year 1920-21 from 30 members..	150.00		
Year 1921-22 from 25 members..	125.00		
Year 1922-23 from 8 members...	40.00		
Annual dinner May 6, 1921, from 2 members	12.00	\$1,188.48	

DISBURSEMENTS:

Printing, Hecla Press.....	\$	78.50	
Room rent, supper room Association of the Bar of the City of New York....	10.00		
Printing, Hecla Press.....	109.25		
Postage	23.47		
Room rent, supper room, Association of the Bar of the City of New York....	10.00		
Chas. S. Cook, binding reports of meetings	2.25	233.47	
TOTAL RECEIPTS	\$1,188.48		
TOTAL DISBURSEMENTS	233.47		
BALANCE ON HAND MAY 1, 1922.....	\$	955.01	

BACK DUES UNPAID:

Year 1917-18 from 2 members.....	\$ 10.00
Year 1918-19 from 4 members.....	20.00
Year 1919-20 from 2 members.....	10.00
Year 1920-21 from 14 members.....	70.00
Year 1921-22 from 15 members.....	75.00

TOTAL DUES UNPAID..... \$ 185.00

Respectfully submitted,

HAROLD S. DEMING,
Treasurer.

TO THE MARITIME LAW ASSOCIATION OF THE UNITED STATES:

RECEIPTS:

Amount brought over from annual report dated April 30, 1921.....	\$810.49	
Dues received from 175 members.....	875.00	
Assessment collected from 86 members for annual dinner May 6, 1921.....	516.00	
Surplus received from Charles R. Hickox for Judge Ward's token.....	45.00	
Sale of copies Rules of Practice.....	11.10	
Interest on bank deposit.....	9.69	
Petty cash	6.35	2,273.63

DISBURSEMENTS:

Printing, Benj. H. Tyrrel, Inc. (checks May 23, May 26, June 20, 1921)....	\$582.25	
May 23, University Club, annual dinners	612.38	
June 13, Librarian Bar Association, room rent	5.00	
July 6, Comite Maritime International, dues (years 1919-20).....	149.20	
Refund on account of annual dinner and dues	7.00	
Clerical assistance	50.00	
Postage.....	21.32	1,427.15

Balance turned over to Treasurer January 10, 1922.. \$846.48

Appendix III.

A NOTE ON IMMUNITY OF SOVEREIGN STATES IN RESPECT OF PROCEEDINGS AGAINST MARITIME PROPERTY.

(Prepared by the Hon. Mr. Justice Hill.)

I invite the *Comité Maritime International* to consider the immunities which are and which should be granted by national Courts of Justice to foreign Sovereign States in respect of proceedings in rem against maritime property (ships and cargoes) and the arrest of such property. These questions arise in practice as to ship and cargoes owned by foreign Sovereign States, and also as to ships privately owned but for the time being in the possession or service of a foreign Sovereign State. In considering these questions it will, I think, be necessary also to consider the immunities which are or which should be granted by national Courts of Justice to the national sovereign in respect of proceedings in rem against and arrest of maritime property owned by the national sovereign and in respect of the arrest of ships privately owned but for the time being in the possession or service of the national sovereign. The questions are not new, but before the war were not insistent. During the war they were frequently forced upon the attention of the Courts. Since the war they continue to arise, especially the question as to the immunity of State owned maritime property. In proportion as Sovereign States engage in trade and own trading ships and mercantile cargoes, the matter becomes of greater and greater importance.

I am not myself sufficiently familiar with the law and practice of other States, to offer any useful observations thereon. The *Comité Maritime International* is peculiarly fitted to investigate the whole subject. As a contribution to such investigation I will state the problems as they arise in the English Admiralty

Court. I observe that in various directions the question has been under the consideration of jurists and of business men. I believe that the Maritime Law Association of the United States has for some time dealt with the matter as it affects ships owned by the United States. I see by Lloyd's List, 4 February, 1922, that the question was discussed in the Netherlands Chamber of Commerce in New York with special reference to the immunities claimed by the American Shipping Board and their recognition by German Courts. The matter is dealt with in the following reviews: The British Year Book of International Law 1921, p. 57, Mr. Arnold D. McNair on Judicial Recognition of States and Governments and the Immunity of Public Ships; The American Journal of International Law (1919), vol. 13, p. 12, Mr. F. K. Nielsen on The Law and Practice of States with regard to Merchant Vessels; and The Journal of the Society of Comparative Legislation (1920), series 3, vol. 2, p. 252, Professor F. P. Walton on State Immunity in the Laws of England, France, Italy and Belgium.

The English Admiralty Court has had to consider the question in many cases with reference to claims of immunity by its own Sovereign and by various foreign Sovereigns. I will state the result of its decisions:

1°) The immunity of foreign Sovereign States in respect of *State owned* maritime property may be illustrated by two cases, in each of which the Portuguese Government successfully claimed immunity from the jurisdiction of the English Court. The first arose out of a collision on the high seas between the British S.S. *Waiwera* and the S.S. *Esposende*. The case is reported in Lloyd's List, 19 and 27 February 1918. The *Esposende* put into an English Port and a writ in rem was served upon the ship at the suit of the owners of the *Waiwera*. The Portuguese Government moved the Court to set aside the writ on the ground that the *Esposende* was a public vessel belonging to the Government of the Republic of Portugal. The Court set aside the writ, holding that it had no jurisdiction to entertain the suit. The second case arose out of the salvage by Liverpool tugs of the S.S. *Porto Alexandre* and her cargo and freight in the River

Mersey. The case is reported in 1920, p. 30. A writ in rem was served and ship and cargo were arrested at the suit of the salvors. The Portuguese Government moved the Court to set aside the writ and arrest as regards ship and freight on the ground that the *Porto Alexandre* was a State owned vessel belonging to the Government of the Portuguese Republic. There was no question but that she was engaged in an ordinary trading voyage. The Court, confirmed by the Court of Appeal, set aside the writ and the arrest so far as ship and freight were concerned. The cargo being privately owned, no attempt was made to set aside the proceedings as against it.

The principle upon which the English Court acts is established by the decisions of the Court of Appeal in *The Parlement Belge*, 5 P. D. 197 and *The Porto Alexandre*, 1920, P. 30.

It is an application to foreign sovereigns of the rule that the British Sovereign is immune from the jurisdiction of the British Courts except in cases where he consents. The British Sovereign cannot, against his will, be made subject to the jurisdiction of his own Courts by any form of procedure. He cannot be impleaded directly by proceedings in personam, and he cannot be impleaded indirectly by proceedings against his property. Immunity from proceedings in rem against and arrest of maritime property owned by him is only a part of his general immunity from legal process otherwise than by his own consent. The like immunity, in compliance with "the international comity which induces every Sovereign State to respect the independence and dignity of every other Sovereign State", is extended by the English Courts to a foreign Sovereign State. Such foreign Sovereign State cannot, in the English Courts, be impleaded against its will either directly by proceedings in personam or indirectly by proceedings against its property. It makes no difference whether the Sovereign State is using the property in trade or otherwise; see, as regards the British Sovereign, *The Scotia*, 1903, A. C. 501, and as regards a foreign sovereign, *The Porto Alexandre*, 1920 P. 30. What applies to ships also applies to cargoes owned by a Sovereign State. In the *Erissos*, Lloyd's List, 24 Oct., 1917, a writ in rem in a salvage action was set aside so far as it related to the cargo of coal which was the property of the

Italian Government. Most of the English decisions relate to collision or salvage actions. The principle was applied in favour of the Esthonian Government in an action of possession. The *Gagara*, 1919, P. 95. The same principle must apply to other actions in rem, e. g., for wages, master's disbursements, necessities, or damage to cargo in breach of a contract of affreightment.

2°) The immunity in respect of *ships privately owned but in the possession or service of a Sovereign State* rests, in the English Courts, upon a somewhat different application of the principle. It extends only to immunity from arrest. The difference arises from the distinction in English law between a proceeding in rem and an arrest. A proceeding in rem is made effective by service of the writ upon the ship. An arrest is a seizure of the ship by the officer of the Court. The service of the writ in rem compels the appearance of the owner if he wishes to defend; if he does not appear judgment will go against the ship by default. The arrest makes the ship, or the bail which in practice is given to secure the release, answerable to the amount of any judgment which may be recovered in the action. When a ship is privately owned but for the time being in the employment of a Sovereign State, the service of the writ in rem is good and neither writ nor service can be set aside. The immunity with which we are dealing is an immunity only of the Sovereign State. It cannot be invoked by a private owner. The mere issue and service of the writ interferes with no right of the Sovereign State. It does not compel the Sovereign State to appear and submit to the jurisdiction. The Sovereign State is affected only if the ship is seized. But arrest does interfere with the use of the ship by the Sovereign State. In several cases in recent years the English Court, on the invitation sometimes of its own Sovereign and sometimes of foreign Sovereign States, has set aside the arrest of a privately owned ship employed by a Sovereign for public purposes. The first of these cases was *The Broadmayne*, 1916, P. 64, a British ship in the service of the British Sovereign; the action was for salvage. The order made was that "all further proceedings in this action with a view to the arrest or detention of the ship be stayed for so long as

the ship shall remain under requisition in the service of the Crown." Other cases in which similar orders were made were:

The Messicano (1916) 32 Ti. L. R. 519, Italian ship in the service of the Italian Government; cause of action, collision.

The Erissos, Lloyd's List 24 Oct. 1917, Greek ship in the service of the British or Italian Government; cause of action, salvage.

The Eolo, 1918, 2 I. R. 78; Lloyd's List 12 July 1917, Italian ship in the service of the Italian Government; cause of action, salvage.

The Koursk, Lloyd's List 22 June, 1918; Russian ship in the service of the British Government; cause of action, collision.

The Crimdon, 35 Ti. L. R. 81, and Lloyd's List 6 Nov., 18 Dec., and 21 Dec., 1918, Swedish ship treated in the Court below as being in the service of the American Government; cause of action, collision. The Court of Appeal ordered an appeal, to stand over for further information as to whether any claim was made as an act of state by the United States, and as to whether the United States Emergency Fleet Corporation was a branch of the United States Government. The objection to give bail was subsequently withdrawn. Bail was given and the action was tried. So far as I know, the position of ships owned or operated by the Emergency Fleet Corporation, though it has been raised, has not been adjudicated upon in the English Court.

All these cases arose during the war and the service in which the ship was engaged at the time of arrest was in the nature of a war service. So far as I remember, the question has not arisen since the war. While it is certain that the immunity extends only to ships in the public service of the Sovereign State which asserts the immunity, and continues only so long as they remain in such service, there seems to be nothing in principle to limit such service to war service. But, in the absence of decision, it cannot be treated as settled law that it would extend, for instance, to a privately owned ship chartered by the Italian Government to carry a cargo of coal for the Italian State Railways

or by the Russian Government to carry any of its national property in the way of trade.

There seem to me to be very grave objections to the immunities from writ and arrest of State owned ships and cargoes and from arrest of State employed privately owned ships, at least when they are engaged in times of peace and in trade. Some of these objections have been pointed out in cases mentioned above. Thus, in the *Esposende* it was said: "It is in the interest of safe navigation and of the preservation of property at sea that those who have suffered injury by negligence or have rendered salvage service or have otherwise acquired rights which, if the ships were privately owned, would give the right to sue in rem and, if the ships were privately used, also the right to arrest, should have no doubt as to the speedy consideration of their claims in Courts with which they are familiar and which are regularly engaged in dealing with Admiralty law." And in the *Crimdon* it was said: "It is a great hardship upon the persons who have claims against such privately owned vessels that they should lose their most substantial remedy (arrest), and in the interest of safe navigation it is most unfortunate that there should be a number of vessels navigating the seas whose owners know that however negligently they may be navigated no maritime lien can be enforced on the vessel while it is in State employment."

In 1873 Sir Robert Phillimore in *The Charkieh* L. R. 4 A. & E. 99, said: "No principle of international law, and no decided case, and no dictum of jurists of which I am aware has gone so far as to authorise a Sovereign Prince to assume the character of a trader, when it is for his benefit; and when he incurs an obligation to a private subject, to throw off, if I may so speak, his disguise and appear as a Sovereign, claiming for his own benefit, and to the injury of a private person, for the first time, all the attributes of his character." This, as the *Parlement Belge* showed, was not a correct statement of the law. But it expresses a view consonant both with justice and with the sound conduct of international commerce. By Article 281 of the Treaty of Versailles it is provided: "If the German Government engages in international trade, it shall not in respect thereof have

or be deemed to have any rights, privileges or immunities of sovereignty." Art. 233 of the Treaty with Austria is in similar terms.

My own opinion is that a remedy for the most unsatisfactory position at present existing is to be sought on such lines as these. If Sovereign States engage in trade and owe trading ships of their own or use trading ships of private persons, they should submit to the ordinary jurisdiction of their own and foreign Courts and permit those Courts to exercise that jurisdiction by the ordinary methods of writ and arrest.

It is also matter for consideration whether the like should not apply to State owned ships not engaged in trade. If arrest of ships of war cannot be permitted, there seems no good reason why proceedings in rem should not be allowed, or why some machinery should not be provided whereby an undertaking to pay should take the place of arrest and bail. I invite the *Comité Maritime International* to consider this question also.

I should add that a committee has recently been appointed by the Lord Chancellor in England to consider the whole question of civil proceedings by and against the Crown, .i.e., the British Sovereign.

I have dealt with the immunity of Sovereign States in respect of maritime property so far only as it affects the jurisdiction of Courts of Justice. But it must not be forgotten that it also raises important questions as to liability to port and harbour dues, import and export duties, and taxation.