

G I F T

OF

SILVER OAR

TO

UNITED STATES DISTRICT COURT

FOR THE

SOUTHERN DISTRICT OF NEW YORK

February, 1941

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COURT IN BANC, Room 506
February 14, 1941, 10:30 A. M.

JUDGE KNOX: The Court takes pleasure in recognizing Mr. Burlingham.

MR. BURLINGHAM: May it please the Court: We are here today to present to the Court the Silver Oar, well known to the admiralty bar but rarely seen. I doubt whether there is anyone in this room who has seen it until this year, unless perhaps Mr. Gilchrist if, as I hope, he is here.

The Silver Oar was the mace of the Vice-Admiralty Court of the Province of New York until the court was dissolved in 1775 by the Revolution. The marshal of the court at that time was Thomas Ludlow, Jr., who took the oar into his own possession, doubtless for safekeeping, which, as we know, is eleven points in the law. Gradually his descendants came to regard the oar as their private property; but about two years ago one of the latest Ludlows put the oar up as collateral for a loan from a National Bank of this District and it was sold last October to a silversmith whose public spirit and artistic sensibility led him to sell it to us without profit to himself.

Many efforts had been made to persuade the Ludlow family to give the oar to this court, but in vain. Mr. Gilchrist informs me that about fifty years ago it was exhibited to Judge Addison Brown, then the sole judge of this court. Those who knew him and remember his battered old beaver hat know that he was not a man likely to encourage unnecessary expenditure for the purchase of a small oar, only twenty-two inches long and weighing only twelve ounces and seventeen pennyweight.

Later, about thirty years ago, an artificer suggested to the court that he could make a copy of the oar, and a copy was made. When I learned this from Mr. Gilchrist, I hurried up to court to see the object, fearing that it was a replica and that, as I had already begun to try to get the original, I might find my labors vain; but the copy proved to be made of lead weighing forty ounces. So I contentedly continued my efforts.

You may be interested to know how we came to obtain the oar. Professor Julius Goebel, Jr., of the Columbia School of Law, a distinguished student of the history of the law, wrote me that the oar was for sale at Mr. Robert Ensko's, a well known silversmith of New York. I conferred with my dear friend, Judge Thacher, and we concluded that we must have that oar. Unfortunately, there was another bidder, Judge Thacher's alma mater. Yale University, which has the finest collection of silver in this country, given it by Francis P. Garvan, was eager to get the oar because it was made by Charles LeRoux, one of the best and most famous of American silversmiths. He was the official silversmith of the City Council, and he made the gold box which contained the seal attached to the certificate of the freedom of the city granted to Andrew Hamilton of Philadelphia, who defended John Peter Zenger in the famous trial here in New York which determined the freedom of the press. I secured an option on the oar, and the money flowed in from our friends who are here today. I appealed to the admiralty lawyers first, and other members of the bar of this court joined us; I should say also that The Maritime Law Association of the United States contributed generously.

If the Court please, I present in behalf of the Bar this small but beautiful and rare piece of artistry. Inscribed on it are the Royal coat-of-arms, the title of the Vice-Admiralty Court and the anchor and the crown on the obverse. There are also inscribed the initials CLR, Charles LeRoux. We have no hall-marks in America. American silver of this quality is very rare. I present it to the Court in full confidence that they will preserve and cherish it.

JUDGE KNOX: Mr. Burlingham, on behalf of my colleagues and myself, I wish to express our deep appreciation of this generous act upon the part of the Bar. It seems appropriate to me upon this occasion that the response to the gracious words of Mr. Burlingham should be made by our brother, Judge Woolsey, who came to us from the Admiralty Bar.

JUDGE WOOLSEY: Judge Knox, Mr. Burlingham, Gentlemen of the Committee of Donors and Gentlemen of the Bar:

This gracious gift, involving as it does the recapture of the ancient mace of our predecessor Court, is an occasion which cannot be passed by the Court *in silentia*.

It deserves comment, and you, Judge Knox, have been good enough—because of my association for years with the Admiralty Bar of this Court—to ask me to accept this oar in behalf of the Court, and to embroider my acceptance with what I might regard as appropriate comments. You little knew, sir, I fancy, that you were in effect mounting me on one of my hobbies—a dangerous indulgence to give to an antiquarian, who has, when his means would permit, allowed himself to venture into the alluring field of the collection of old silver. But I promise to ride my hobby on a curb, and after a very short canter to rein him back on his haunches, and bring him to a sudden stop.

I have the following remarks to make which I hope may prove of interest.

A silver oar was, throughout the British Empire from the early part of the eighteenth century, the mace of the Vice-Admiralty Courts, of which there was one in each of the principal ports of that Empire. The size and design of the maces were identic.

These Vice-Admiralty Courts were commissioned under the Great Seal of the High Court of Admiralty in England and dealt with questions not only of Forfeiture for Custom Violations, but also with Prize causes, an important jurisdiction, because, until the last World War, the proceeds of the sales of captured vessels and cargoes found their way to a large extent into the pockets of their captors.

Although there were many Vice-Admiralty Courts in this hemisphere, we find still extant, so far as I can discover, the maces of only three; that of Bermuda, mentioned by Judge Hough, the greatest student of our Court history, in the preface to his invaluable book on "*Cases in Vice-Admiralty and Admiralty, New York, 1715 to 1788*"; that of Boston, discovered, I think, since Judge Hough's book was written; and that of New York, which is being given to us today. We have known about the latter for many years and this Court has had a replica of it in base metal since the latter days of Judge Addison Brown, who was the only Judge of this Court from 1881 to 1901, when—before its merger with the old Circuit Court in 1911—it was predominantly an Admiralty Court.

There has been a Court with Admiralty jurisdiction in New York City almost continuously since October 5, 1678, when Sir Edmund Ambrose, the then Governor General, appointed Stephen Van Cortlandt, then Mayor of New York, to be Judge of the Court of Admiralty of the Province of New York.

The Colonial Court of Vice-Admiralty came to an end on December 19, 1775. Its last official act was, I understand, the taxation of a bill of costs!

This Vice-Admiralty Court was in due course succeeded by the Admiralty Court of the State of New York, which lasted until after the adoption of the United States Constitution. Then

in 1789—the first Court to be formed under the United States Constitution, as Mr. Thacher told us on the occasion of our One Hundred and Fiftieth Anniversary last year—came our present District Court as a Court of Admiralty.

The silver oar of the Vice-Admiralty Court was the outward and visible sign of the authority which the Court derived from the Crown to arrest persons and vessels, and it was carried, inserted in the top of a staff, before the Judge when he went into Court and was laid on the Bench in front of the Judge whilst he was sitting.

The two silver oars still extant in the United States were made *circa* 1725. We cannot be more precise as to the date, because the marks of American silversmiths do not contain date letters.

The Boston oar was made by Jacob Hurd, one of the most celebrated colonial silversmiths of that city and is now owned by the Massachusetts Historical Society.

The Boston oar and the oar which is being given to us today are of about the same size and weight. Both of them are engraved in the style of lettering used in the first quarter of the eighteenth century. The New York oar has the inscription "Court of Vice-Admiralty New York" with the British Coat of Arms on one side and the Crowned Anchor, which was the seal of the Admiralty Court of Great Britain, on the other.

This oar which is being given to us today was made by Charles LeRoux, who was born in 1689, and who died in 1745. It bears his mark "C. L. R." LeRoux was a noted colonial silversmith, and for a long period he served as the official silversmith of New York City. As such he was employed to make many gold and silver boxes to contain the seals attached to certificates granting the freedom of the City to illustrious visitors and citizens, and he engraved the plates for bills of credit issued at various times between 1715 and 1737. He was commissioned by the Common Council on one occasion to prepare a gold box to

enclose the Seal of the City of New York to be presented to George Clinton on September 28, 1743.

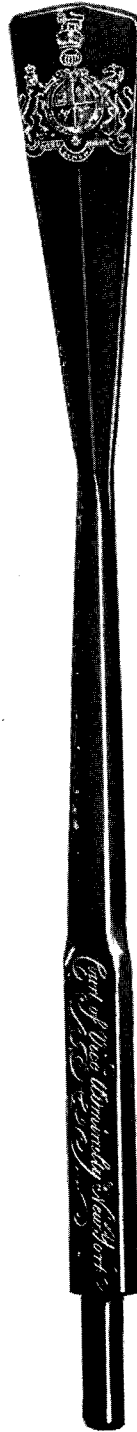
Charles LeRoux himself received the Freedom of the City of New York on February 16, 1724, and the same year he was appointed Deacon of the New York School, whatever that may mean, and, *inter alia*, he held the office of Assistant Alderman of the East Ward from 1735 to 1738.

The gift which is being made to the Court today, therefore, has not only the greatest association value by reason of the fact that it was the mace of a Court which was, so to speak, our direct juridical ancestor, but also very great intrinsic value because it is an exquisite example—more than 200 years old—of early colonial craftsmanship.

Mr. Burlingham and Gentlemen of the Donor Committee, this Court with the deepest appreciation accepts as its mace the oar which you are now tendering to it.

As this oar has again found its proper *venue* after one hundred and sixty-six years, the Court hopes that it will be preserved under the Court's control in safety through the years to come in such manner as may be deemed advisable.

JUDGE KNOX: Once again, gentlemen, the Court expresses its thanks and appreciation and gives the assurance that we shall treasure and preserve this historic relic, and draw inspiration from its symbolism. I am sure that those who follow us will do no less.



Note: Last page is gummed so that this document can be pasted in the back of Document No. 259 of February 1941.

Doc. No. 273

March 1942

(Supplement to Doc. No. 259
following page [2740])

NOTES ON THE SILVER OAR OF THE ADMIRALTY
COURT SENT TO JUDGE WOOLSEY IN DECEMBER
1941 BY LORD MERRIMAN, PRESIDENT OF THE PRO-
BATE, DIVORCE AND ADMIRALTY DIVISION OF THE
HIGH COURT OF JUSTICE, LONDON

(With acknowledgments to an article by the late Sir
Travers Twiss, Queen's Advocate General in the time of
Queen Victoria, in Volume 46 of the Nautical Magazine
[1877 page 572]).

The Silver oar was acquired by the Probate, Divorce and Admiralty Division of the High Court of Justice in England from the High Court of Admiralty created by Act of Parliament in 1840, which in turn had acquired it from its predecessor, the Court of Admiralty sitting at Doctors Commons.

The opening section of the old Black Book of the Admiralty reads:

“When one is made admirall, hee must first ordaine and substitute for his lieutenant, deputies, and other officers under him, some of the most loyall, wise, and discrete persons in the maritime law and auncient customes of the seas which hee can any where find, to the end that by the helpe of God and their good and just government the office may be executed to the honour and good of the realme.”

Accordingly the Admiralty Judge was formerly known as the Lieutenant General of the Lord High Admiral and the oar was the emblem of his authority so to act. Though all Judges of the Probate, Divorce and Admiralty Division have jurisdiction in Admiralty it is the custom only to place the oar in Court when the President is sitting either in Admiralty or in Prize.

The oar is in shape a silver paddle with a blade about a foot long and a three ringed stock about 1 ft. 9 ins. in length, with a butt at the lower end. There appears to be no early written record of its history; but much of this can be deduced from what appears on the face of the oar itself. Reversing the probable historical order, the first item of interest is the ducal coronet, arms and garter of William IV, as Duke of Clarence, on the top of the lower half of the blade. William IV, before his succession, was the last individual holder of the office of Lord High Admiral. Since his

succession to the throne the office has always been in Commission, the Royal Navy being governed by the Lords Commissioners for executing the office of Lord High Admiral. Indeed, the office has only been held individually four times since the last of the Stuarts.

Secondly, on the upper section of the stock is an assay mark of the time of George III, the date of which is between 1784 and 1820. It is this section of the stock which would naturally rest on the shoulder of the Marshal when the oar is carried ceremonially. The inference is that in course of time the original silver in this section became worn out and was replaced.

Thirdly, in the butt of the stock is engraved "Jasper Swift Marshall of the Admiralte". There is no date, but it is known that in 1586 (28 Elizabeth) a precept was issued by Lord Effingham, the Lord High Admiral, to Jasper Swift as Marshal to arrest certain persons for piracies and felonies on the High Seas and in the Thames below bridge towards the sea. Jasper Swift's tenure of the office of Marshal overlapped the Lieutenant-Generalship of Dr. David Lewis, who died in 1584. Dr. Lewis's tenure of office is notable for the determined fight he waged against the incessant prohibitions of the Admiralty Court by the Court of Queen's Bench. Like other pluralists of those times he was also the first President of Jesus College, Oxford, but for our present purpose it is more important to record that he was the son of the Vicar of the Priory Church at Abergavenny. When he died he was buried in the chancel of that church, where he lies in effigy, in full Doctor's robes. On the face of the tomb are three panels, one displaying the "Foul Anchor", the Admiralty emblem; another three volumes (perhaps the Black Book aforesaid) surrounding the emblems of mortality; and the third the figure of Jasper Swift, carrying, slightly defaced but unmistakable, the oar.

Fourthly, at the top of the blade is embossed a crown. It would seem that this was originally arched but, if so, the frontal arch has been removed, or has worn away, and another crown has been engraved inside on the blade itself. On the tomb mentioned in the preceding paragraph the Crown is intact.

Fifthly, immediately below and incorporated with this embossed crown are quartered the Arms of England and France, supported by the greyhound and dragon, which were the armorial supporters of Henry VII. Henry, however, was never Lord High Admiral, but on his succession, after the defeat of Richard III at Bosworth, he appointed John de Vere, Earl of Oxford, as Lord High Admiral.

Oxford had been one of his principal adherents at Bosworth (see Shakespeare's Richard III), and his predecessor, Sir John Howard, had been killed with Richard III in that battle. Howard had succeeded Richard, Duke of Gloucester, brother of Edward IV, the last Royal Duke to hold the office before William IV. Though the arms and crown now appear as one unit, it may be doubted whether they are really contemporaneous, or whether either of them is contemporary with the oar itself. It is possible that de Vere removed an obnoxious Yorkist coat of arms and substituted those of Henry VII. This is pure speculation; but if Henry VII's arms are contemporary with the oar itself, there is nothing to account for the assay mark next to be noticed. It is at least certain that the arms of William IV mentioned above have been inserted at a later date between this coat of arms and the Admiralty anchor below it.

Sixthly, the ring next above the butt bears three assay marks. First, a leopard's head, the mark of the Goldsmiths Company; second, the lion passant, the King's mark and third, a letter, either a year mark or the mark of a particular maker. Apparently this particular combination is not traceable at Goldsmiths Hall, but it would satisfy the requirements of 37 Edward III (1363) when the King's mark was first mentioned. The Court of Admiralty was undoubtedly established in the reign of Edward III. It is possible, therefore, that the oar may have come into existence with the Court itself or, if the main body of the oar only dates from Henry VII, that some part of the stock of an earlier oar may have been incorporated in it.

Finally, at the lower end of the blade is the "Foul Anchor" which, it may be assumed, is contemporary with the blade itself, or at least with the arms of Henry VII, as the case may be.

In the article referred to at the head of these notes occurs a passage which may aptly be quoted at the present time.

"England has taken the lead in framing written rules of navigation, and in procuring their adoption on the part of other nations. Let her maintain her place in the van of the maritime states, and complete this good work in the cause of our common humanity by teaching them how the jurisdiction of the Silver Oar of the Admiralty—which was called into existence to meet the novel exigencies of maritime navigation consequent on its sudden and prodigious development during the Fourth Crusade—is capable of being expanded so as to give vitality to the new rules, and to secure their observance under difficulties not less formidable."