

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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GOLDEN GATE YACHT CLUB,	:
	:
Plaintiff,	:
v.	:
	:
SOCIÉTÉ NAUTIQUE DE GENÈVE,	:
	:
Defendant,	:
v.	:
	:
CLUB NÁUTICO ESPAÑOL DE VELA,	:
	:
Intervenor-Defendant.	:
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Index No. 602446/07
IAS Part 54
Hon. Shirley Werner Kornreich
**REPORT AND DECLARATION OF
JOHN ROUSMANIERE**

JOHN ROUSMANIERE declares as follows:

1. I am over 18 years of age and am a citizen of the United States. I submit this Report and Declaration in connection with the above-captioned litigation to address the relevance to sails of the “constructed in country” clause that was introduced in the 1882 amendment to America’s Cup Deed of Gift.

My Background

2. I am a historian and a yachting writer. I have researched and written extensively on topics related to the matters at issue here, specifically the history of the America’s Cup.

3. My 26 books include *The Golden Pastime: A New History of Yachting*, *Fastnet*, *Force 10*, *The Annapolis Book of Seamanship*, *A Glossary of Modern Sailing Terms*, *The New York Yacht Club: A History*, *The Low Black Schooner: Yacht America, 1851-1945*, and two histories of the America’s Cup. My books have been

included in the curriculum of college courses. I have also published over two hundred articles on sailing, yachting, and the America's Cup. I was the writer for a television network's coverage of the 2002-03 America's Cup eliminations in New Zealand.

4. I am a member of the Editorial Advisory Board of *The Oxford Encyclopedia of Maritime History*, to which I contributed articles on the America's Cup, the history of yachting, yacht design, and other subjects. I served on the Editorial Board of *The Encyclopedia of Yacht Designers*, to which I contributed biographies of several designers of America's Cup yachts.

5. I have addressed numerous sailing organizations, including the United States Sailing Association's 2007 National Sailing Programs Symposium. I have spoken on America's Cup history at several America's Cup Hall of Fame Induction Ceremonies and at other events.

6. I am a member of the New York Yacht Club and its Library Committee. I have been a member of the America's Cup Hall of Fame Selection Committee since 1993, and chaired it from 1996 to 1997.

7. I received a Master of Arts degree in American History from Columbia University and taught history for several years at the United States Military Academy at West Point.

8. The exhibits attached hereto as Exhibits A through T are true and correct copies of original documents.

Introduction

9. For more than a century of America's Cup competition, nationality concerned only yacht clubs and yacht hulls. There were no nationality restrictions on

sails in the first race in 1851, when the American donors of the America's Cup used English sails. The first formal restriction of international exchanges of sail and other technologies was not established until after the nineteenth cup regatta in 1962. That was when the then trustee, the New York Yacht Club, issued what it would call an "interpretive resolution" limiting access to technology across national borders. Subsequently other, sometimes conflicting restrictions were imposed until all interpretive resolutions were rescinded by SNG and GGYC before the most recent cup races in 2007.

10. The issue rests on two fundamental ideas:
 - a. The two sides, challenger and defender, should not lose their national identities.
 - b. The America's Cup cannot survive without good, close racing.

This pair of concerns goes to the heart of the donors' purpose. In the Deed of Gift, they stated that it was their intention that the trophy they won in a yacht race in Cowes, England in 1851 should be "perpetually a challenge Cup for friendly competition between foreign countries."

11. To keep the races international, competitive, and perpetual (much less friendly) requires a balance of interests. On one hand, the two sides should represent their nations. That is why, since the America's Cup's beginning in 1851, contestants have agreed that the hulls of the racing yachts must be built in the countries of the yacht clubs they represent. On the other hand, in order to encourage challengers to continue to come forward and race, there should be a reasonable expectation of a level playing field so the competition is true and fair. In a sport as technology-driven as yacht racing, this means that the teams should have similar access to state-of-the-art equipment.

12. To be both international and competitive was a challenge. The interpretive resolutions addressed that problem for many years, but they have been rescinded. Now the only guides are the donors' intent and historical precedent.

13. For purposes of this Declaration, I have examined four questions:

- a. What is the history of international exchanges of sailmaking technology for the America's Cup?
- b. What was the intent of the donors of the America's Cup with respect to "constructed in country"?
- c. Why was the "Second Deed," which contains that rule, written?
- d. What is the significance of the series of post-1962 Interpretive Resolutions and protocols concerning the "constructed in country" clause?

What is The History of International Exchanges of Sailmaking Technology for the America's Cup?

14. Sailmaking technology was freely exchanged across borders beginning in 1851. From the yacht *America* onwards, during the lives of the donors – Commodore John Cox Stevens, George Schuyler, and the other owners of *America* who were also signatories to the Deed of Gift – sailmaking technology was repeatedly and publicly exchanged internationally with only rare protests. No complaint came from the trustee of the Cup, whether George L. Schuyler or, after his death in 1890, the New York Yacht Club until 1962. In several cases, the borrowers or importers of sail technology were officers of the trustee yacht club, including Commodore Stevens himself and Commodore J.P. Morgan.

15. Below is a chronology:

- 1851: In England, Commodore Stevens acquired two sails for America made by an English sailmaker and set them in the race around the Isle of Wight.
- 1871: British challenger Livonia's sails were made of American cotton, not the flax typical of English sails.
- 1876, 1881: The two Canadian challengers' sails were recut by New York sail lofts.
- 1887: British challenger Thistle's mainsail was made of American cotton duck.
- 1893: The British challenger Valkyrie II's sails were made of American cotton duck.
- 1895: (1) British challenger Valkyrie III's sails were made of American Sea Island cotton. (2) New York Yacht Club Defender set at least one sail made of ramie fiber, made from a Japanese plant. Defender's owners (including New York Yacht Club former Commodore E.D. Morgan and former Rear Commodore C. Oliver Iselin) acquired all the ramie they could find in England, had it spun into yarn in Ireland, and brought the yarn to the U.S. to be woven into sail cloth. (Exhibit A.)
- 1901: British challenger Shamrock II's sails were made of American Sea Island cotton
- 1903: All three U.S. defense candidates, including the winner Reliance, purchased sails from the new American subsidiary of the English sailmaker Laphorne & Ratsey, at City Island, staffed by English and American sailmakers. The firm held patents for sail design in both countries. The Americans involved were at the highest levels of the New York Yacht Club. Former Commodores J.P. Morgan and E.D. Morgan helped establish the Ratsey loft and were members of the America's Cup Committee, which ran the races. Former Rear Commodore C. Oliver Iselin bought the Ratsey sails for Reliance. When he asked Edwin W. Laphorn if he would make sails for Reliance, Laphorn replied, "it is what we came here for." The only objection to Ratsey's providing sails for the Americans was from English newspapers. Reliance did not set the sails in the cup races. (Exhibits B, C.)

- 1920, 1930, 1934, 1937: U.S. defenders and British challengers all used sails that were designed or built by employees of the English and U.S. branches of the English-owned firm now called Ratsey & Laphorn. All yachts had access to the same sailmaking technology, including Egyptian and Sudanese Sekel cotton cloth. Most of these sails were designed by English sailmakers but built in each yacht's country.
- 1934: New York Yacht Club member Gerard B. Lambert loaned one of his U.S. defense candidate Vanitie's U.S.-made jibs to Thomas Sopwith's challenger, Endeavour. The British boat flew the sail in a cup race before replacing it with a new jib built by the U.S. Ratsey loft. "This action of mine helping a challenger upset some diehard yachtsmen," Lambert recalled. "But Sopwith had come across the Atlantic and I thought he deserved the courtesy. In the long run I am sure it was approved by all." The trustee New York Yacht Club took no action against Lambert and five years later elected him as its Rear Commodore, hardly a punishment. (Exhibit D; Exhibit E.)
- 1958: British challenger Sceptre flew a spinnaker in races that was designed and built in France at the Herbulot sail loft. The same boat was denied permission by the New York Yacht Club to use U.S. sailcloth.
- 1962: The Australian challenger Gretel used U.S.-made Hood sails in the races, winning one race with an all-Hood inventory.

16. There is but one likely explanation for this 111-year pattern of behavior in a total of nineteen America's Cup regattas. Unlike hulls, sails were not regarded as subject to nationality restrictions – not by sailors, not by sailmakers, and not by the donors and the trustee New York Yacht Club. One influence was that around the turn of the century, thanks largely to the America's Cup, yachting was more international in other ways. English sailmakers may have sold jibs to *Reliance*, but American manufacturers provided her opponent, Sir Thomas Lipton's *Shamrock III*, with U.S.-made blocks, masts, and steering gear. (Exhibit F.)

17. Had a stringent “constructed in country” rule – like the one proposed by Golden Gate Yacht Club in this action – been in place and enforced, in most of those nineteen regattas either the challenger or the defender (and sometimes both) might have been disqualified. The yachts on this list include some of the most important and competitive boats in the Cup's history, including the America's Cup winners *Defender* (1895) and *Reliance* (1903), and the near-winning challengers *Endeavour* (1934), and *Gretel* (1962) – not to mention the yacht for which the competition is named, *America* (1851).

What Was the Donor's Intent?

18. The nationality of the hulls of challengers' and defenders' yachts has been considered crucial to the identity of the America's Cup since the very start of the competition. In Cowes, England, on August 2, 1851, New York Yacht Club Commodore John Cox Stevens submitted a challenge to the Commodore of the Royal Yacht Squadron, the Earl of Wilton. He opened with these words (“model” was a nineteenth century yachting term meaning “hull shape” or “hull type”):

The New York Yacht Club, in order to test the relative merits of the different models of the schooners of the old and the new world, propose through Commodore Stevens, to any of the Royal Yacht Squadron, to run the yacht *America* against any number of schooners belonging to the Yacht Squadrons of the Kingdom, to be selected by the Commodore of the Royal Yacht Squadron, the course to be over some part of the English Channel outside the Isle of Wight, with at least a six-knot breeze.

(Exhibit G at 18.)

19. It was understood from the beginning, therefore, that the cup was a test of hulls representative of the countries whose national ensigns they flew.

20. The America's Cup Deed of Gift was drafted in New York, in the spring of 1852, by a member of the syndicate that owned the yacht *America*, George Schuyler. He consulted New York Yacht Club Commodore John Cox Stevens, who had headed the *America* syndicate and commanded the yacht in England during the summer of 1851. That the Deed of Gift was profoundly influenced by Stevens' experiences at Cowes is made abundantly clear in a letter that Schuyler wrote to a U.S. sporting periodical in 1871.

21. The particular purpose of this letter was to explain one word in the Deed: "match." Schuyler was certain that the club had violated the donors' intent as well as the meaning of "match" when it sent a fleet of yachts out to defend the America's Cup against the first challenger, *Cambria*, in 1870. The last surviving donor of the cup, Schuyler carefully examined the meaning of "match" from several angles. The dictionary definition was clear that it meant "one against one." Schuyler also had the broader aim of reminding the New York Yacht Club of the donors' intention to provide a competitive *and* international race. He quoted Judge Samuel Blatchford, of the United States District Court for the Southern District of New York: "It would be a departure from both *the letter and the spirit* of the deed of gift for such club to insist that the challenging party shall sail the match against more than a single yacht." (Exhibit H at 12 (emphasis in original).)

22. The donors famously laid out their purpose in the Deed of Gift: the cup they had won was to be "perpetually a challenge Cup for friendly competition between foreign countries." Schuyler recalled in his 1871 article that when the donors met in 1852, one member suggested that the demands were too onerous on the challenger.

Commodore Stevens reminded him that *America* had little going for her, having crossed the ocean and getting, not the match they had challenged for, but a race against the fleet of the Royal Yacht Squadron. He instructed Schuyler, “Well hang it man, tack on something about the regatta at Cowes to remind them of what sort of chance *we* had.” (*Id.* at 19 (emphasis in original).)

23. Therefore, to appreciate what was intended in the Deed of Gift, we should look at the donors’ experience at Cowes.

24. One undisputed fact is that the donors set foreign sails in the race on August 22, 1851. When she arrived in Cowes a month earlier, she carried the typical New York pilot boat schooner rig of just three sails: a gaff mainsail (the large, four-sided aftermost sail), a gaff foresail (the four-sided sail set without a boom between the tall mainmast and the shorter foremast), and a headsail or jib (the triangular sail extending between the foremast and the tip of the bowsprit). These three sails were made in New York by Rubin H. Wilson from cotton duck cloth woven in Paterson, New Jersey. Wilson’s sail plan shows a fourth sail – a mainmast topsail (a small triangular sail) carried above the mainsail, but that sail was not made in America.

25. When *America* raced in England, it was under a very different rig. There, Commodore Stevens purchased two sails from a Cowes sailmaker and set them in the race around the Isle of Wight. One of these sails was a mainmast topsail.

26. The second sail, a flying jib, was little known by New York yachtsmen but in common use in England. A large headsail set forward and outside of the original jib, it was called a flying jib because it was set without attachment to a stay. The sail was tacked (secured) at the far end of a special-purpose strut called a “jib boom” that

was temporarily pushed out beyond the end of the bowsprit. *America's* new sails and the jib boom were made in Cowes, England, by the Ratsey shipyard and sail loft. The sails were made of flax, the typical British sailcloth (also referred to as hemp).

27. Although Commodore Stevens, his brother Edwin Stevens, and a third member of the syndicate who was also in Cowes, James Hamilton, knew that their yacht was fast, they were aware that she had weaknesses. They also had deep respect for English yachtsmen and English yachting technology. A *Times* of London journalist reported of the three men that, "to show that they are not above taking a hint, they have prepared a jibboom [sic] and jib, and there is also talk of a gaff topsail having been sent on board by Ratsey, of Cowes." (Exhibit I at 3.)

28. The two sails were set in the August 22 race around the Isle of Wight. The *Times* reporter, who evidently followed the race from a spectator craft, noted that soon after the start "the *America* evinc[ed] her disposition to take advantage of her new jib by hoisting it with all alacrity." Later the jib boom broke. The reporter described this accident, adding a narrative of the Americans' purchase of the new English sails and jib boom:

While running under Dunnose at 12:58 her jib-boom broke short off. It may be remembered she procured the spar from Ratsey, of Cowes, but no blame attaches to him, for not only did he recommend Messrs. Stephens [sic] to take a yellow spar instead of the white one they selected, but the boom was broken by mismanagement on the part of the men when straining on it with the windlass, and did not snap from the action of the sail.

(Exhibit J at 3.)

29. The acquisition of this equipment was described slightly differently 26 years later by a member of the crew, Henry Steers, in a speech to yachtsmen at the Seawanhaka Corinthian Yacht Club. He spoke of his uncle, George Steers, *America's* designer:

We were rigged (on arrival) pilot-boat fashion, no fore-topmast and no flying jib-boom, and, as we thought we could do better with a flying-jib, we went to Ratsey, at the Isle of Wight, to get him to make the spar. My uncle bet him the price of that jib-boom that we could beat any boat he could name. He named the *Beatrice*. Then we went to a sailmaker to have a flying-jib made, and we bet the price of this sail on the race. We heard that there was someone in Southampton who wanted to bet, and some of the party went there. He wanted to "book it," as they do over there; but our party had no bank account, no letters of credit; all our money as in a bag aboard the yacht, and we wanted the money put up, so this wager fell through. So all we got on the race was the price of the jib-boom and the sail.

(Exhibit G at 28); *See also* John Rousmaniere: *The Low Black Schooner: Yacht America, 1851-1945* (Mystic, Conn.: Mystic Seaport, 1987); Winfield M. Thompson, William P. Stephens, and William U. Swan, *The Yacht "America"* (Boston: Lauriat, 1925).

30. Commodore Stevens was an extremely knowledgeable sailor and a commanding captain, so it is incredible that the decisions to buy, rig, and set this unfamiliar gear came from anywhere but the top. That is especially so because *America's* sailing master, Dick Brown, a New York sailor, was extremely dubious about the new-fangled English flying jib. When the jib boom broke, Brown announced to Stevens and all others on board that he was "damned glad it was gone." (Exhibit G at 25.) Other evidence for this sail and its boom exists in images of *America* sailing, first in New York and then in England. In New York she has the three-sail, pilot-boat plan. A

woodcut accompanying an account of the race in *The Illustrated London News* shows the flying jib, the jib boom, and a small topsail. (Exhibit K.)

31. Forty-two years later a flying jib – made of the distinctive British sailcloth flex (hemp) – with *America's* name on it was discovered in Boston, Massachusetts, where the yacht had been rerigged in the 1880s. (Exhibit L.)

Why Was The “Second Deed” Written?

32. After his triumphant return to New York, Commodore Stevens planned for the New York Yacht Club to hold an international challenge match race for the cup *America* had won. He stood over George Schuyler as he drafted the Deed of Gift that went to the New York Yacht Club with the cup after Stevens' death in 1857. The only nationality requirement in this “First Deed” was that the two yacht clubs, one for the defender and the other for the challenger, be from different countries.

33. The “constructed in country” clause originates in the so-called “Second Deed” of 1882. We should take a look at its development.

34. There is no doubt that the main reason why George Schuyler, the only surviving donor, rewrote the Deed of Gift in 1882 was to prevent the 1876 and 1881 Canadian challenger, Captain Cuthbert, from returning. The performance of his two challengers, first *Countess of Dufferin* and later *Atalanta*, had been so poor as to be embarrassing not only to Canadians but to the New York Yacht Club. The club feared for its reputation and the America's Cup's future. Perpetuity seemed a dim hope.

35. Justice Ciparick was understating the matter when she referred to the “two disappointing America's Cup races” involving the Canadian boats. (Exhibit M at 2-3.) Arriving in New York two months late at the end of a towline after being pulled

through the Erie Canal, *Atalanta* turned out to be such a sorry vessel that the New York Yacht Club Regatta Committee worried she would capsize in the first race against the defender *Mischief*. The committee's official report to the club's members said this:

The *Atalanta* was then showing the effect of the wind so badly that your Committee deemed it prudent to order the Tug to stay as near her as possible more especially so as our gallant member Mr. Henry Steers was on board of her helping the Canadian to beat your Champion all he could.

(Exhibit N at 2.)

36. The second race was described as follows in *The Spirit of the Times*:

The race Wednesday, if race it can be called — amounts to this: *Mischief*, a tried and proved sloop, confessedly one of the fastest in the world, thoroughly fitted out and equipped, fully manned, and magnificently handled, distanced the *Atalanta*, a new yacht, hastily built, totally untried, and miserably equipped, with sails that misfitted like a Chatham Street suit of clothes, and bungled around the course by an alleged crew, who would have been overmatched in trying to handle a canal boat anchored in a fog.

(Exhibit G at 88.) *Atalanta* lost the first race by just over 28 minutes, the second by almost 39.

37. None of this was lost on George Schuyler and the New York Yacht Club. Once the owner of *Atalanta*, Alexander Cuthbert, announced that he would keep the boat in New York over the winter and challenge again for 1882 (as was permitted by the 1852 Deed), the club held a special meeting on December 15, 1881. Urged on by their officers, the members approved a resolution instructing the club to return the cup to Schuyler so he could improve the Deed in accordance with the donors' intentions. (Meanwhile, up in Canada, the members of Cuthbert's Bay of Quinte Yacht Club saw the

writing on the wall. At a members meeting of their own, they voted a resolution of thanks to the New York Yacht Club for running the races and decided that *Atalanta* deserved an easy cruise to the Caribbean.) (Exhibit O.)

38. The New York Yacht Club's concerns were articulated in a surviving document that was presented at the members meeting, very likely in a speech by J. Frederic Tams or another member that was quoted and paraphrased in the newspapers. At issue was *Atalanta*, which was widely regarded as a poorly-finished copy of typical U.S. yachts. (Again, "model" meant "hull shape.")

. . . [S]he comes, not as the proved acknowledged champion of the section of the globe from which she hails, and of the model representing the successful type of that part of the world, but crude in finish and appointment and in an unfinished condition, and of a model and type essentially the same as the vessels she expected to meet, so reducing the contest initiated for the purpose of fostering and improving the models of seagoing vessels to a mere race between boats of neighboring clubs.

(Exhibit P at 1.)

39. After meeting with Tams and other members of a special committee, George Schuyler agreed that the initial deed that he and John Cox Stevens had written almost 30 years earlier needed improvement: "I fully concur with the view expressed in the resolutions, that the deed of gift made so many years ago is, under present circumstances, inadequate to meet the intentions of the donors and too onerous upon the club in possession, which is required to defend it against all challenges." (Exhibit Q at 28.) He filled a few loopholes in the first Deed (among them, defining "match" as a one-on-one contest). Otherwise, the reason for the "Second Deed's"

existence was to prevent the stubborn Captain Cuthbert from returning by adding four new provisions:

- The course for the challenging club's annual regatta must be suitable for the largest yachts and also be located on open water on the sea or "an arm of the sea," a legal term which at that time did not incorporate the Great Lakes (*Atalanta* hailed from the small Bay of Quinte on Lake Ontario).
- The challenging yacht henceforth must sail on her own bottom to the start, as *America* did in 1851 (*Atalanta* was towed through the Erie Canal and Hudson).
- A defeated boat may not challenge for the Cup within two years or until another challenge intervened (Cuthbert had announced he would be back).

40. And the challenger had to be "constructed" in the country of the challenging yacht club. Since the complaints about *Atalanta* concerned how identical her "model," or hull shape, was to U.S. yachts, "constructed" can only have meant "designed and built." Nothing was said or even implied in the "Second Deed" about sails, scantlings, or other construction standards. The issue was that *Atalanta* was modeled on domestic yachts.

What Can Be Made of The Series of Post-1962 Interpretive Resolutions and Protocols Concerning "Constructed in Country"?

41. One proof that "constructed" concerned only the shape of the hull is that America's Cup boats were soon using foreign sail technology without protest by competitors or the trustee. Not for another 107 years, in 1958, did the trustee New York Yacht Club directly address international exchanges of technology other than hull design. In the first of its statements about the meaning of the Deed of Gift that it came to call "interpretive resolutions," the club defined "constructed" to mean "designed and built."

The trustee now began for the first time to regulate sails. New synthetic materials and increasingly serious international competition were raising the bar for sail designers

42. Even then the point was made tentatively. That year, in the first known trustee exclusion of sail technology in the history of the America's Cup, the New York Yacht Club declined to permit *Sceptre* to use an exotic American synthetic sail cloth, Zeta, for spinnakers. At the same time the club turned a blind eye when the English challenger *Sceptre* set a French spinnaker. The idea, apparently, was to prevent challengers from using only designs and materials found in the defender's country.

43. And yet four years later, the trustee gave the first Australian challenger, *Gretel*, full freedom to use American sails. *Gretel's* skipper, Jock Sturrock, told the yachting writer Carleton Mitchell, "We have available a full complement of Hood and Ratsey sails to use—if we want to." And *Gretel's* crew did. They set U.S.-made Hood sails throughout the 1962 match, and almost won the cup. (Exhibit R; *see also* Exhibit S.)

44. Soon after the 1962 races, the New York Yacht Club, as trustee, produced the first written policy concerning international exchanges of technology. Its interpretive resolution stated that whenever "design facilities may not be available and components, fittings, and sails may not be obtainable in the county of the challenging club," the trustee would consider requests from the challenger to obtain them elsewhere, except in the country of the defending club. (Exhibit T at 4.)

45. The 1962 interpretive resolution and its successors were attempts to resolve the historic tension laid out in the donors' aim to preserve the America's Cup as an international competition. That two-sided principle would be further developed in

other interpretive resolutions that, over time, permitted a more open international exchange of technology.

46. In 1980 the trustee rescinded the 1962 interpretive resolution and issued a new one permitting challengers to construct sails in the defending country once their yachts were in that country. The emphasis then shifted from nationality rules concerning the building of sails, on one hand, to rules concerning their designers, on the other. The 1982 amendments to the 1980 interpretive resolution included this footnote:

A foreign designer—however he is designated—participating in the design of a boat or a sail would violate both the letter and the spirit of the above Resolution, and any boat or sail so designed would be ineligible for use in America’s Cup competition. Similarly, a hull or sails which are merely copies of those of a foreign designer would also be ineligible for use in America’s Cup competition.

(*Id.* at 5) This emphasis on the role of designers and the originality of their work strengthened over time.

47. The sail designer’s role and responsibilities were accounted for in the rules that concerned the only precedent for the 2010 races. That was the 1988 Deed of Gift match between the challenging New Zealand 90-foot waterline monohull and the San Diego Yacht Club catamaran. Although the two sides had little to agree on, they did produce a Notice of Regatta that laid down the sail designers’ obligation to vouch for their work product:

9.4.1 In order to assure that the design of sails complies with the interpretation of the Deed of Gift, every sail which may be used by both the defending and the challenging yachts must be dated and certified in writing, either physically on the sail or on paper, by the sail’s designer (who must be a national of the country in which the club represented is located).

9.4.2 If the sail designer's declaration is on paper, rather than physically on the sail, the sail shall be inspected and initialed by the Measurement Committee prior to its use in a race.

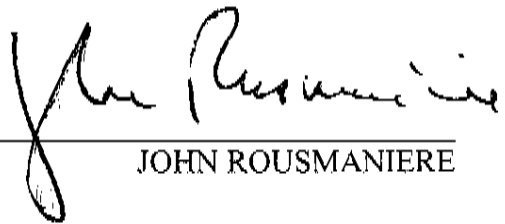
48. As yacht racing flourished, high technology equipment became commonly available. In 1996 the trustee Royal New Zealand Yacht Squadron and the challenger of record New York Yacht Club agreed to insert the following statement in the protocol for the 2000 cup races: "In relation to rigs and yachts generally, standard fittings of different design origin are acceptable provided that they are generally available." Sometimes referred to loosely as the "off the shelf rule," this standard was expanded to specifically allow all boats, challengers and defenders alike, to acquire sails made by North Sails' 3DL process (whose only plant is in Nevada) so long as each team's designer satisfied a nationality requirement.

49. Under those simple, practical rules that could be adjusted to the rapidly changing technology, there were few major disputes, the sailing was close, and the international identity was maintained to the satisfaction of many. But the evolution of interpretive resolutions and protocols defining and limiting the international exchange of sails and other technology ended with the 2003 America's Cup races in New Zealand. In the protocol for the 2007 race, agreed to by the defender (SNG) and the challenger of record (GGYC) and dated January 21, 2004, the following statement was made:

9. Interpretive Resolutions. The Trustee Interpretive Resolutions require updating to take into account contemporary circumstances. The content of such Resolutions have been considered and, where appropriate, addressed by mutual consent in this Protocol. All Trustee Interpretive Resolutions including those in effect as at the end of the last race of the 31st America's Cup match (2 March 2003) have no further effect for any purpose whatsoever.

50. The abandonment of interpretive resolutions would appear to place the issue back where it started, with the intent of the donors.

Dated: January 20, 2010
New York, New York



JOHN ROUSMANIERE

Exhibit A

THE
ENCYCLOPÆDIA
OF
SPORT

EDITED BY
THE EARL OF SUFFOLK AND BERKSHIRE
HEDLEY PEEK
AND
F. G. AFLALO

VOL. II



LONDON
LAWRENCE AND BULLEN, LTD.
16 HENRIETTA STREET, COVENT GARDEN
1898

cloth, and consequently presents a smoother surface to the wind; the wind does not escape through it so easily as through flax cloth, but it does escape more easily off it, and its effort is therefore expended with less friction. The best sail cloth is a beautiful material, and is made chiefly of Egyptian cotton.

Though cotton has been grown in Egypt from time immemorial, it was as an ornamental plant; and it is only during the present century that it has become an important article of export. The value of a long stapled variety from Dongola and Senaar, growing in the garden of Maké Bey in Cairo, was observed by a Frenchman, and being brought under the notice of the Pasha, its cultivation was undertaken with such success that "Maké" cotton became an important production.

Cotton seed was also introduced from Isle de Bourbon and under instructions from Mehemet Ali its cultivation was carried on so energetically, that in 1824—5 the yield amounted to 9,464 tons. The civil war in America, and consequent cotton famine in England, greatly stimulated the cultivation of the plant in Egypt, and in 1892 the production amounted to about 220,000 tons. The cotton is of a superior quality, and best Egyptian fetches nearly double the price of American cotton, with the exception of that known as "Sea Island Cotton." This Sea Island cotton is grown on some small islands off the coast of Florida. It is very long in the fibre, and of unequalled quality, but the supply is small, and the price practically prohibitive.

The cotton yarn is all spun in Manchester, and the cloth woven by the well-known firm of R. Hayward and Co., whose ancestors started the trade 100 years ago. Their business is now managed by Mr. Edward Taylor, whose forefathers made sail cloth at Coker 200 years ago from flax grown in the west of England; hence the name "Coker" sail cloth, which is a trade mark to this day. They continued in the trade from generation to generation until 1878, when the present Mr. Taylor became associated with the firm of Hayward and Co., and under his able superintendence, sail-cloth making has become a fine art.

Ramie fibre is no new discovery. It was known to the Egyptians, and has been found in mummy cases. It is obtained from a tropical or semi-tropical plant, which grows wild in great profusion, and is very easily cultivated.

Although the fibre has many good qualities, it has not up to the present, or at any rate not till quite recently, been able to compare favourably with cotton for various reasons, the chief of which is, that whereas cotton can be put straight from the field on to the spinning machine, ramie fibre has to be separated, or de-gummed, from the bark of the stalk on which it is found. This operation is costly, and until very recently

it could not be accomplished without damaging the fibre. The latter difficulty has been overcome by the "Gomess" process, but the former objection of cost still remains in operation.

Another objection to ramie cloth is that, although the fibre is long, and very strong as compared with cotton, and is of a fine silky texture, the small loose fibres work up during the process of weaving, with the consequence that the surface of ramie cloth is more thickly covered with small hairy fibres than is the case with cotton cloth, and it consequently creates more wind friction than the latter material. Ramie fibre is, however, likely to come into use. A composite cloth is now made, composed of cotton warp and ramie weft threads, and inasmuch as the cotton warps cover up the ramie weft, the difficulty of wind friction has been overcome, and a cloth stronger than cotton, equally smooth, and consequently very suitable for the mainsails of big cutters, is the result.

The "Defender," the yacht that defended the American Cup under the challenge of "Valkyrie III.," had a ramie mainsail and topsail, but the mainsail was not used during the race, and has not, I think, ever been seen in public. Report said that the "Defender" Syndicate bought up all the ramie fibre on the British market, took it to Belfast, had it spun into yarn there, and carried it over to the United States, where it was woven into cloth.

"Bona," the Duc d'Abruzzi's cutter, had a ramie mainsail which stood to its work very well, but has this year been fitted with an Egyptian cotton sail; and "Flavia," a 36-foot rater, has all her sails made from ramie cloth. But though these experiments have been made, and have, I believe, given satisfaction, ramie does not appear likely to supersede cotton.

Although a great advance in sail-making has taken place during the last half century, the substitution of steam for sails has naturally stifled the scientific development of the art. Demand is small in the yachting world, and only one firm has given the very difficult subject of cutting sails the attention it deserves. Scientific men have not been encouraged to invest much time upon it, and what is known on the whole subject of the propulsion of boats by means of sails has been slowly and gradually learned by practical experience and by rule of thumb. Tradition says that the Dutch originally instructed the English in the art of fore and aft sail-making when Holland was in her zenith some two centuries ago; with the result that, the English proving apt scholars, the mainsails of the London smacks and coasters, Revenue cutters, and last, but not least, of the large privateers, some of them of 400 tons burden, which scoured the seas during the latter part of the last and the early part of the present century, were fairly cut, and were probably almost as perfect as the loose hand-spun and hand-woven

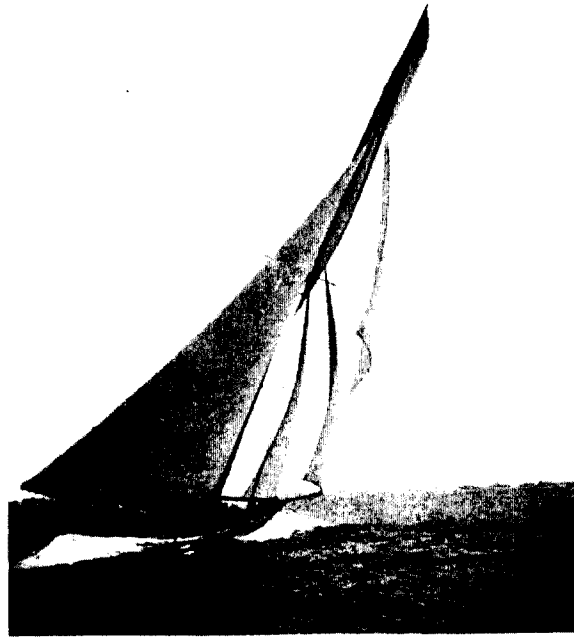
cloth of those days permitted. Early in the present century, machine-spun yarn superseded hand-spun threads, to the great benefit of sail-making, for, although hand-spun yarn is preferable for ropes till this day, such is not the case in respect of yarn for sail cloth.

About thirty years later, weaving machinery was introduced and gradually took the place of the old hand looms, and the make of sail cloth was thereby very much improved. In this, as in other trades, the employment of expensive machinery brought about the gradual extinction of small men, and nowadays the yacht sail cloth business is practically confined to four firms in the south of England. Up to recent times, loose-footed sails were used; they were cut with a considerable hollow in them and flax was exclusively employed in their manufacture. It was not until the form and body of yachts had been greatly improved that the value of flat sails and the superiority of cotton over flax was demonstrated. Flax was good enough for the full-bottomed, iron ballasted yachts of early days, as was shown when flat sails were tried and proved to be of no advantage whatever. Then came the year 1851, and the revolution in yacht designing caused by the success of the "America." Great importance was attached to her flat cotton sails, and it was thought that her close windedness was due to that cause alone. Such, however, was not really the case; her fine performance was due principally to her beautiful model, fine lines and small displacement, factors which ensure that a vessel possessing them will hold a better wind than a full-bottomed beamy boat of large displacement. The "America's" sails undoubtedly suited her model, but they did not suit the British yachts of that day equally well, as was very soon discovered by experiment. Flat sails did little to increase their speed, and until improved models were introduced the advantages of flat sails were not made apparent. Cotton sail cloth was introduced about this time, but although tried for a year or two it was found

useless in making full-bottomed boats go any faster, and it was abandoned.

The object of the sail-maker is to obtain a material possessing great strength, little elasticity, uniformity of stretch, close texture, and a smooth surface, from which the wind frees itself with the least possible friction. Sail cloth makers and sail makers busied themselves for years in pursuing these requirements, and progressed faster than did designers and builders of yachts, for it was not until the advent of the "Alarm," "Gloriana," "Flying Cloud," "Galatea," and "Shark," that laced-footed and flat mainsails came into use. The year 1863 saw a lot of

famous schooners, among them the "Aline," "Albertine," "Egeria," "Pantomime," and "Witchcraft," all vastly improved in model, and therefore capable of standing their sheets being pulled in; and once a yacht will allow of that, flat sails can be used with great advantage. Flat sails accordingly became the rule and not the exception; but flax cloth was still used, for the yachting world was not yet educated up to cotton. In 1868 appeared the beautiful 400-ton schooner "Sappho," from America, canvased with cotton. She was a lovely model, but



"BRITANNIA."

had neither power nor ballast to stand up to her cloth, and she made a sorry show in a race round the Isle of Wight against such boats as the "Cambria," "Aline," "Oimara," and "Condor." Completely remodelled and rebuilt in 1870 by Bob Fish, one of the smartest men in America at designing and sailing boats, she sailed three matches against the "Cambria." As "Sappho" measured 400 tons, and "Cambria" only 200 tons, and as no time allowance was given, the former had naturally by far the best of it. She won easily, and her success set the fashion in cotton cloth.

The following year Mr. Ashbury built the "Livonia." She was canvased with cotton, and the sails did well. But the boat was not a great success, and in consequence cotton cloth again dropped out of use for some years,

and was not tried again till the year 1887, when the "Thistle" had all her sails made of that material. East India cotton was, however, used instead of Egyptian, and the cloth did not come up to expectation. The next boats to use cotton were "Yarana," "Valkyrie," "Deerhound," and "Iverna," and all the succeeding racing yachts, including "Britannia," "Satanita," "Calluna," "Valkyrie II." and "III." were canvased with cotton cloth.

The mainsails of "Valkyrie II." and "III." were both made of Sea Island cotton, but the latter was also given a white Egyptian cotton sail, which was used for the Cup races, as it was considered a better sail than the one made of Sea Island cotton.

It is no compliment, but a universally recognised truism, to say that the best sails in the world are made by Messrs. Laphorn and Ratseys.

George R. Ratsey, born in 1769, served his apprenticeship at East Cowes, and in 1790 set up on his own account in that town. In those days hundreds of merchant ships called at Cowes for orders, and Mr. Ratsey's business was principally concerned with them.

But he also made sails for His Majesty's Navy, as in those stirring times, when fleets were constantly fitting out at Portsmouth, a good deal of sail-making was given out to private firms. He

made the sails for the "Waterwitch" brig, owned by Lord Belfast, to which allusion has already been made.

Mr. Ratsey subsequently retired in favour of his son, and the Cowes business was carried on very successfully by him until the year 1880, when he retired, and his sons entered into partnership with Mr. Edwin Laphorn.

James Laphorn served his apprenticeship at Kingsbridge, near Salcombe, and then went to London, where he managed a large sail-making business. In 1825 he migrated to Gosport, and started sailmaking on his own account, and in the course of time was joined by his two sons, James and Edwin, who carried on the business most successfully for many years. James Laphorn died in 1868, and his son James in 1869, and the business was conducted subsequently by his surviving son, Edwin, until he entered

into partnership, as already mentioned, with Messrs. Ratsey in 1880.

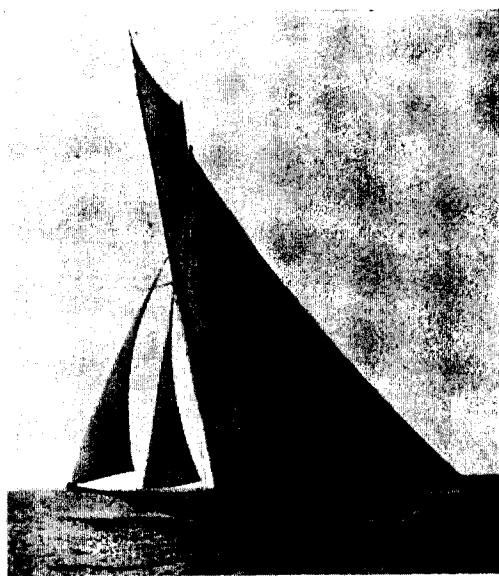
The firm of Laphorn and Ratseys carry on business at Cowes, Gosport, Gourock, and Southampton, and there can be no doubt that the combination of talent and experience derived by this amalgamation has been very beneficial to the art of sail-making.

Under these circumstances, immense strides have been made in the art of sail-cutting of late years, and the difficulty in setting sails properly and keeping them in their places has been proportionately decreased. Five and twenty years ago racing yachts were started from an anchor, with all their sails down, and it was a very difficult business, especially if there was any weight of wind, to set properly the canvas of a 100-ton

cutter in those days. In fact, with much wind the mainsail could never be got to set all day. Hemp stays and gear were also stretching all the time, and even if the sails were properly set at starting, a pull here and there was constantly required to keep them in their place. Nowadays, with perfectly cut sails, and with wire gear and rigging, which practically has no stretch, a sailing master's difficulties in respect to setting his canvas are much diminished. The sail-maker always sends printed instructions with the sails, and the skipper has not very much more to do

than to carry them out. Some care, of course, must be taken with a new mainsail, although it is not nearly so easily damaged as is generally supposed. Popular opinion is that a sail may be spoilt irretrievably if it gets wet, or if it is reefed before it has become thoroughly stretched. It is certainly better to avoid reefing it if possible before it is stretched into shape, but far from wetting spoiling a sail, I believe it does it good, provided of course that it gets thoroughly dry afterwards.

The difference between a well-cut and a badly-cut sail, though plain enough in practice, is due to such small and almost imperceptible causes, that it is not easy to account for the fact that one firm have succeeded in acquiring a practically complete monopoly of sail-making for racing yachts, especially as the superiority of their productions is not due to any patent process, or



"VALKYRIE II."

Exhibit B

CLASSIC SAILS

The Ratsey & Laphorn Story

William Collier

Mystic Seaport Museum

Franco Pace

Beken of Cowes

Such breaches of etiquette were minor compared to the dilemma that American yachtsmen anticipated the company facing when Sir Thomas Lipton challenged again for America's Cup in 1903. Initially the New York loft was only involved in providing sails for the trial horses, the 1899 defender *Columbia* and *Constitution*, an unsuccessful candidate for the 1901 defence. Nat Herreshoff, suspecting that information on his design for *Reliance*, the eventual defender, would be leaked back to England refused to allow the firm any contact with his new creation. When supplying the trial yachts, Edwin W. Laphorn was cautious, but only on business grounds. He checked his quotes against those given in England for *Shamrock III* since 'it would never do for us to let them off better than Sir Thomas. There is the Challenge.'²⁹ Consequently E. D. Morgan was forced to point out to the firm that their quote for *Columbia* was considerably higher than Herreshoff's but they still secured the order.³⁰ Although eager to secure business, it is clear that Ratseys & Laphorn's were relatively expensive and that the firm was happy to maintain this clear indication of quality differential even if it lost a few orders. In the loft's second year Edwin W. Laphorn reported back to Cowes that 'We find our prices tend to stick in the throats of one or two of them and we have lost one or two orders in consequence.'³¹

Despite relatively poor sails *Reliance* was chosen over the two older yachts and the particular reasons for Herreshoff's secrecy gradually became apparent. In hull dimensions *Reliance* and *Shamrock III* were very close but the American yacht carried more than 12 per cent extra sail area. C. Oliver Iselin, manager of *Reliance*, sought to upgrade her canvas and cautiously approached Ratsey & Laphorn fully expecting the same rebuttal that *Vigilant's* owner had received 10 years earlier. The firm had, however, worked out its policy regarding such matters; their New York loft was American. Consequently Edwin W. Laphorn received Iselin's invitation to quote 'with great pleasure' adding that 'it is what we came here for.' For his part Iselin 'thanked us and said he should not have been surprised if the reverse had been the case and that he should have understood our position.'³² This, however was only the beginning of difficulties; Herreshoff refused to give Iselin a copy of the sail plan and obstructed the British sailmakers throughout.³³ Eventually they had to measure *Reliance* on board before being able to cut and make her sails. When these were supplied the firm achieved a monopoly on the America's Cup sails on both sides of the Atlantic that lasted until the 1950s.



Left: In 1903 Ratsey & Laphorn's New York loft built its first America's Cup sails, these were for the 1899 defender *Columbia* which acted as trial horse against the newly built *Reliance*. / Photo by James Burton, Rosenfeld Collection, Mystic Seaport Museum

Right: The Herreshoff-designed and built *Reliance* was originally equipped with his sails but these did not compare well to those Ratsey & Laphorn had supplied for *Columbia*. Although Herreshoff refused to allow the firm to have a copy of the sail plan, they eventually built the sails that were used in the 1903 Cup races. / Photo by James Burton, Rosenfeld Collection, Mystic Seaport Museum

Over Left: *Mariette* on passage from Falmouth to Cowes after competing in the 1997 transatlantic race. / Franco Pace

Over Right: *Mariette* in her restored glory off Porto Cervo in 1995. / Franco Pace

Over 2: The New York 30 class *Linnet* is a survivor of the New York Yacht Club's many pre-First World War Herreshoff-designed one design classes. She is seen here in 1997 on the first sail trial following her restoration in Santo Stefano. / Franco Pace

Exhibit C

AGAINST ENGLISH SAILS.

British Paper Criticises Americans for Reported Order.

London, April 29.—The sensation caused in British yachting circles by the announcement that Ratsey & Lapthorn, the English sailmakers, who have an establishment at City Island, New-York, have received orders for suits of sails for the *Reliance*, the *Constitution* and the *Columbia*, can be best judged by an editorial article which will appear in "The Yachting World" of April 30, under the heading "An International (?) Contest." This article says:

Anglo-Saxon yachtsmen will regret to hear that the forthcoming contest for the America's Cup has practically lost its international character, owing to the acceptance of an order for a new suit of sails for one of the defenders by Ratsey & Lapthorn, of Cowes and City Island. Since they happen to be the only individuals other than the actual designer and the owner of the challenger who possessed the actual measurements of her sail plan, they have data unsurpassed in the history of sport.

Continuing, the paper admits that the challenger's outfit at present includes blocks of American manufacture, but points out that these neither increase nor decrease a yacht's speed, while the sails are so important that one of the leading American yacht clubs estimates them to be more important than the hull. "What would American yachtsmen think," "The Yachting World" goes on, "if the owner of *Shamrock III* approached Herreshoff to obtain a design for a challenger, which he is at perfect liberty to do?"

In conclusion, the paper says it trusts that "those responsible for the sailing of the defender will abandon their intention of using anything in the defence of the cup which can be identified with Great Britain."

When Sir Thomas Lipton heard of the report that Ratsey & Lapthorn were making sails for the American yachts, he expressed his incredulity. When he read Mr. Ratsey's statement to *The Associated Press* that the City Island branch of the firm had made a suit of sails for the *Columbia*, he said:

"Under the circumstances I have no opinion to express at present."

From other sources it has been learned that Mr. Ratsey promised never to make sails for the defender while Sir Thomas was challenging for the cup.

Exhibit D

All



Out of Step

A Personal Chronicle by

Gerard B. Lambert

Doubleday & Company, Inc., Garden City, New York 1956

This decision was a hard one to make, but there were many reasons for it. At the time I had no yacht for a flagship. My yachts had gone the way of all wars. We lived in Princeton and seldom went near New York. For six months in the winter we were in Florida. I was certainly not the person to run a New York club. If the club had been in any trouble I would never have made this decision, but it was in excellent hands, and would do better without me.

Although I left Gillette in 1935, the summer of the year before had been an exciting yachting experience. Tommy Sopwith had challenged for the America's Cup and had brought over his "J" boat *Endeavour* and his motor yacht *Vita*. To meet this challenge Mike Vanderbilt and his syndicate built a new "J" boat called the *Rainbow*, and *Yankee*, the Boston boat, was altered somewhat and put in commission. The struggle between these two yachts was magnificent, but *Rainbow* was chosen to defend the Cup. I want to quote a paragraph from a book published in England in 1937 by Lieutenant-Commander P. K. Kemp. It is called *Racing for the America's Cup*.

"As a trial horse for the *Endeavour* Mr. Gerard Lambert most sportingly fitted out his yacht the *Vanitie* and raced her in a series of tuning-up races. This gave the *Endeavour* a fine chance to find her best racing trim and also of exercising her amateur crew in handling and setting of big sails. While it did this it also proved to the challenger the efficacy of that favorite American sail the Genoa jib and Mr. Sopwith had the opportunity of trying it out and comparing it with his more usual sail plan of double-clewed jib and staysail. He borrowed a Genoa from the *Vanitie* and found it a great improvement on various points of sailing."

This action of mine of helping a challenger upset some die-

hard yachtsmen. But Sopwith had come across the Atlantic and I thought he deserved that courtesy. In the long run I am sure it was approved by all.

Tommy Sopwith had requested the New York Yacht Club to give him some American to take charge of his power yacht during the races, as he would not be on board. The club asked me to do it. This was rather embarrassing. Every day of the Cup races I would go aboard *Vita* early and take her out of the harbor to the course and bring her back at night. On all sides were Britishers, and not a single relieving Yankee twang. Quite properly they were very partisan, and I felt very much alone.

There was an incident in one of the races which has been written up in great detail on both sides of the Atlantic and with many acrimonious words. I will not add to the literature on the subject except as the event involved me. After the yachts had just rounded a mark, a mix-up occurred. Vanderbilt luffed and Sopwith was forced to give way. Sopwith finished, carrying a protest flag. I was on the bridge of *Vita* and saw the whole thing clearly, but when Sopwith sent me a pleading note to the *Atlantic* after dinner that evening, I went over to see him. He was just finishing his own dinner.

"Jerry," he said, "did you see that today?"

"No," I said, "I was so busy bringing your yacht round the mark that I missed the whole thing." He looked rather skeptical and I asked if he had sent his written protest in. He said yes, it had gone, and he never felt so sure in his life that he was right. As the protest had gone in I said nothing more and went back to *Atlantic*. If it hadn't gone I might have done something about it. Tommy and his wife, Phil, have become very intimate friends and he told me long after that I was the most unconvinc-

Exhibit E

WINNING SKIPPER IS HIGHLY PLEASED

**Vanderbilt Says There Was No
New Breeze When Rainbow
Went to the Fore.**

SOPWITH HAS NO ALIBIS

**But Declares He Had Trouble
With Genoa Jib, Leading Him
to Wire for a New One.**

By **JOHN RENDEL.**

Special to THE NEW YORK TIMES.

NEWPORT, R. I., Sept. 20.—Expressing pleasure but showing no particular signs of elation over Rainbow's performance, Harold S. Vanderbilt faced the daily barrage of questions aboard Vara this evening with his usual reserve and brevity.

"I think we did better," he said with a smile, and that summed up what he thought of the race. Then he went on to tell of various phases of the contest, which the defender pulled out of the fire after appearing almost hopelessly beaten.

One of the first points that needed clarification was whether or not Rainbow had had the benefit of a fresher slant than Endeavour when she caught and passed the British yacht on the weather leg. This was settled in short order.

"No, there was no new breeze," Mr. Vanderbilt said, "just the same breeze," and added that Endeavour had tacked too late to cover his yacht.

Rainbow's skipper was asked where he had picked up his lead on the weather leg. He responded that "we overcame Endeavour's lead in the first five miles and built up our own lead in the last ten."

Hoyt at the Helm.

He also said that when Rainbow finally passed Endeavour the British boat was back-winded, a fact which was evident to spectators but over which there was some curiosity.

Mr. Vanderbilt disclosed that C. Sherman Hoyt had the wheel on Rainbow for most of the way on the weather leg, volunteering the information that this was the usual procedure when the yacht was carrying a Genoa.

He was asked whether he did not think that Rainbow would do better with a larger spinnaker, something more nearly comparable to the one which Endeavour carried.

"Our experience was that this spinnaker was better than the larger one against Yankee," was the answer.

A Logical Response.

Once more the defender's skipper paid a compliment to Endeavour, saying that she was very fast indeed. In this connection one of his interviewers wanted to know whether he could give any reason for the tremendous lead Endeavour took on the first leg, and Mr. Vanderbilt gave the simple, logical response that "she went faster."

As for any contemplated changes, he declared that none would be made, thereby holding to his original statement that Rainbow was at her peak as far as speed was concerned.

There was no inclination on the part of T. O. M. Sopwith to make alibis. He had lost the race and took the entire burden upon himself, although he did point out he had had considerable difficulty with his Genoa jib.

"I make no excuses for today," he said. "Our loss is attributable to me and no one else."

Declaring that the British were not downhearted despite the setback, he went on to explain why he had no fault to find with racing luck.

Had Worst of the Breaks.

"We perhaps had the worst of the breaks, as you call them," he said, "and could make excuses in this sport where excuses are common. But we shouldn't have been in a position where breaks were against us."

As regards Genoas he expressed himself as not being satisfied with the one carried today and declared he had learned a lot about them since the series started. He said that it was an old one from Gerard B. Lambert's Vanitie which Mr. Lambert had recut for Endeavour.

Pointing out that the one brought from England was of a different type from the American make and too heavy, he said he asked for the postponement so that he could get a new one from the Ratsey Lofts in City Island. The new one is half completed there and Mr. Sopwith wired for it after the race.

"We must learn how to sail un-

der the Genoa jib to windward," he said. "We know nothing of them in England, except in an America's Cup year."

Otherwise he was completely satisfied with the boat and contemplated no changes.

Discussing the weather leg on which Endeavour lost the race, he declared:

"Our speed dropped from 7½ to 4 knots after we rounded the outer mark. When we tacked to the port tack the first time we were headed two points and Rainbow was lifted two points.

He likewise stated: "I enjoyed most the work under the Mae West spinnakers. We were sailing as high as we dared with them and went with the wind as it headed us."

Exhibit F

that we were taking an unfair advantage in ordering sails from an English firm, and that it was necessary for us to use English sails to keep the Cup. As a matter of fact these sails are English in name only, for they will be made on American soil (Messrs. Laphorne & Ratsey's plant being located at City Island) and by American workmen. Now that this subject has come up, it might be recalled that the blocks, the hollow wooden spars and the steering gear used on Shamrock III. are all of American make.

THE following article is from the Boston Herald, and it speaks for itself. The several mishaps that have occurred on board the big racing boats during the last few years has prompted the owners of Reliance to take every precaution in case of accident:

"Dr. Thomas Monahan, of this city, graduate of Harvard, and a former well known 'varsity football player, has been appointed surgeon on the Reliance. He has been at the Massachusetts General Hospital for years, and also with Dr. Pfaff, who speaks highly of his ability. He joins the Reliance Sunday, and will be on her until after the cup races are over. This is the first time that a physician has been engaged for a probable cup defender."

SHAMROCK III.'s new steel mast was stepped at Greenock on April 30. New and much heavier rigging screws will replace the ones that were used before the accident. Shamrock III. will in all probability resume her trials with the first Shamrock on the Clyde about May 6.

MESSRS. LAPHORNE & RATSEY have received orders from the owners of the three trial boats—Columbia, Constitution and Reliance—for complete suits of sails. This firm has turned out such superior work it is only natural that the owners of the big boats should want the best sails procurable; good canvas is necessary to get speed out of any boat. When the report reached the other side that Messrs. Laphorne & Ratsey would make sails for the American trial boats the British press had much to say on the subject, and several of the papers intimated

Exhibit G

THE
LAWSON
HISTORY
OF THE
AMERICA'S
CUP

A Record of Fifty Years

BY

WINFIELD M THOMPSON

AND

THOMAS W LAWSON



BOSTON MASSACHUSETTS
M C M M I I

THE LAWSON HISTORY

The first of these was sent to the Earl of Wilton, Commodore of the Royal Yacht Squadron, by Commodore Stevens, on August 2d, "after waiting a reasonable time for a proposal for a race," to quote Col. Hamilton. It was as follows:

The New York Yacht Club, in order to test the relative merits of the different models of the schooners of the old and the new world, propose through Commodore Stevens, to the Royal Yacht Squadron, to run the yacht America against any number of schooners belonging to any of the Yacht Squadrons of the Kingdom, to be selected by the Commodore of the Royal Yacht Squadron, the course to be over some part of the English Channel outside the Isle of Wight, with at least a six-knot breeze. This trial of speed to be made at an early day to be selected by the Commodore of the Royal Yacht Squadron. And if on that day there shall not be at least a six-knot breeze, then, on the first day thereafter that such a breeze shall blow.

On behalf of the New York Yacht Club,

JOHN C. STEVENS,

COWES, August 2, 1851.

Commodore.

To this challenge the following answer was received:

The Commodore of the Royal Yacht Squadron has the honor to acknowledge the receipt of a proposition from the New York Yacht Club, to run the yacht America against any number of schooners belonging to the Yacht Clubs of the Kingdom upon certain conditions. He will take the earliest opportunity to acquaint the proprietors of schooners throughout the kingdom of the proposed trial, but as there are a great many Yacht Clubs in Great Britain and Ireland, some little time must necessarily elapse before answers can be received. The members generally of the Royal Yacht Squadron are greatly interested in testing the relative merits of the different models of the old and new world without restriction as to rig or otherwise, and with this view have offered a cup, to be sailed for by vessels of all rigs and nations on the 13th instant. It would be a subject to them of the highest gratification to hear that the America had entered as a competitor on the occasion.

WILTON,

Commodore of the R. Y. Squadron.

ROYAL YACHT SQUADRON HOUSE, August 8, 1851.

tection of the Medina River. In 1851 the club was quartered at the Gloucester hotel, at West Cowes. The Royal Yacht Squadron received its first royal cup to be sailed for in 1830 from William IV. Victoria presented it with a trophy each year from 1843 to the end of her reign. These cups were sailed for over a fixed course, known as the Queen's cup course, from a starting-point off Cowes, to and around the Nab light, and to and around a mark off Lympington, thence home, about sixty miles.

To this communication, Commodore Stevens made the following reply:

YACHT AMERICA, August 9, 1851.

My Lord, — I had the honor yesterday to receive your communication of the 8th inst., in which you inform me in reply to the proposition of the New York Yacht Club to run the America against any schooners belonging to any of the Yacht Clubs of this Kingdom, that you will take the earliest opportunity to acquaint the proprietors of such schooners of the proposed trial, and in which you invite me to enter the America as a competitor for the cup to be sailed for at the regatta on the 13th inst. I beg leave in reply to say that as the period of my visit is necessarily limited, and as much time may be consumed awaiting to receive answers from the proprietors of schooners (without intending to withdraw that proposition), and although it is my intention to enter for the cup, provided I am allowed to sail the America in such manner as her rig requires: yet as the issue of a regatta is not always a test of the merits of the vessels engaged in it, I now propose to run the yacht America against any cutter, schooner, or vessel of any other rig of the Royal Yacht Squadron, relinquishing any advantage which your rule admits is due to a schooner from a cutter, but claiming the right to sail the America in such manner, by such booming out, as her raking masts require; the course to be in the English Channel with not less than a six-knot breeze; the race to come off on some day before the 17th instant; the distance to be not less than twenty nor over seventy miles out and back, and in such a direction as to test the qualities of the vessels before and by the wind.

Although it would be most agreeable to me that this race should be for a cup of limited value, yet if it is preferred, I am willing to stake upon the issue any sum not to exceed ten thousand guineas.

I have the honor to be, your Lordship's obedient servant,
JOHN C. STEVENS.

P. S. As I have offered to enter the America for the prize to be given by the Royal Yacht Squadron on the 13th instant, it is desirable that I should receive an answer before that day.

A possible stake of 10,000 guineas was, to quote an entry of Aug. 11th in James Steers' journal, "a staggerer" to the English yachtsmen. On the same day Mr. Steers recorded: "We went out and sailed under our mainsail and jib and beat everything we fell in with at that."

Mr. Steers states that the *America* was to have sailed "in the Ryde Yacht Club regatta" [doubtless the *Royal Victoria* of Ryde was meant], but that she was barred out, because "according to standing rules every yacht has to be the sole property of one individual." He records, "This made us downhearted," and adds that Commodore Stevens [whom he refers to here and elsewhere familiarly as "Johnnie,"*] went ashore and "wrote a third and last challenge to sail any vessel six hours to windward and back, wind to blow six knots and upwards, for £10,000."

"On going ashore," wrote Mr. Steers, "I saw Mr. Bates, the secretary of the club, who told me it was accepted by the Southampton Yacht Club, to sail the *Alarm* against us."

An answer to Commodore Stevens' letter of the 9th was not received before the 13th, and the *America* did not sail in the regatta that day, though she went out to show her paces to the racers, among which was the *Alarm*. To quote Mr. Steers again, the *America* followed the racers under jib and mainsail, "and, as I hope to sleep to-night, we kept up with the *Alarm* with that sail." It may have been because of this, or for other reasons, that no race was obtained with the *Alarm*.

On the 15th there were two races, one for schooners and another for cutters, for cups valued at £50. The *America* went over part of the course. "When we started," wrote Mr. Steers, "the race boats were at least three miles ahead of us. We beat the whole fleet of about fifty sail about one third of the way."

At Cowes, on the following Monday, he wrote: "We put after the racers, who were about three miles ahead of us. We passed them all in one hour 38 minutes' sailing."

There was a great stir among the conservatives of the Royal Yacht Squadron over Commodore Stevens' challenge, but a prompt reply to it was not forthcoming, although the air was filled with talk of matches. The following letter from Col. Hamilton to Lord Desart throws some light on the situation on the 15th:

CLUB HOUSE, COWES, YACHT AMERICA,

August 15, 1851, 10 o'clock A. M.

My Lord,—I have communicated to Commodore Stevens your wish that he should make a friendly trial with the *Armenia* and *Constance* to-day. I am authorized by Commodore Stevens to say, he will be most happy to make such a trial with these or any other vessels of the Royal Yacht

* The writer draws an amusing word-picture of Commodore Stevens sitting on the cabin floor of the *America*, after her arrival in England, counting over his bottles of rum, and asking the steward in vigorous language "where in — his liquor goes," to which query the steward replied that he does not know, "unless the Mr. Steers had taken some of it."

Squadron, whenever his proposal of the 9th inst. may be accepted or rejected.

I have the honor to be, your Lordship's obedient servant,

JAMES A. HAMILTON.

On the 16th Commodore Stevens, despairing of obtaining an individual match for the America, entered the vessel for the Royal Yacht Squadron regatta to be sailed Aug. 22d, by sending the following note to John Bates, Esqr., R. N., secretary of the Royal Yacht Squadron:

Dear Sir,— Will you do me the favor to enter the America for the Royal Yacht Squadron Regatta to come off on the 22d inst. The fact that this vessel is owned by more than one person is so well known as to render it almost unnecessary to state it; yet I do so when she is entered, to avoid the possibility of seeming to contravene the rules of the Royal Yacht Squadron.

Allow me further to say, in reference to others who may be disposed to be competitors, that should there be little or no wind on that day, this vessel will probably not sail.

With respect, your obedient servant

JOHN C. STEVENS.

While the challengers were waiting for their proposal for an individual match to be taken, and the correspondence here given was passing, the British press kept up a spirited fire of comment.

The *London Times* spurred on the fainthearted yachtsmen of Britain by saying it could not be imagined that England would "allow the illustrious stranger to return to the New World with the proud boast that she had flung down the gauntlet to England, Ireland, and Scotland, and that not one had been found to take it up." The *Times* pointed out that no disgrace would attach to defeat, "but if she be permitted to sail back to New York with her challenge unaccepted, and can nail up under it, as it is fastened on one of her beams, that no one dare touch it, then there will be some question as to the pith and courage of our men."

Although the performance of the America showed her to be without question superior, and vastly so, to any vessel in the Solent fleet, there at last appeared one English yacht-owner with pluck enough to make a match with her. He was Robert Stephenson, and he arranged to sail his hundred-ton schooner *Titania* against the America twenty miles from the Nab light and back, for £100. *Titania* was new, with the defect of having her spars set too far forward, and she was not a champion craft, such as Commodore Stevens wanted to sail against. Her owner appears

THE LAWSON HISTORY

to have agreed to race her against the Yankee schooner more to sustain the reputation of British yachtsmen for courage than from any great hope of winning.

Anticipating the order of events, it may be said that the race between the *America* and *Titania* was sailed August 28th, in a strong breeze, the course being laid to leeward. The Earl of Wilton's yacht *Xarifa* was stakeboat, being anchored off the Nab. The *America* distanced *Titania*, beating her 52 m., chiefly in windward work, although the jaws of the *America's* fore-gaff were carried away, and much time was lost while splicing the gaff and in favoring the broken spar in the severe thresh to windward. Col. Hamilton estimated that at the finish *Titania* was seven miles astern of the *America*.

Mr. Stephenson's example had a salutary effect, for while his trial against the *America* was pending Mr. Woodhouse, owner of the schooner *Gondola*, proposed a match between his yacht and the *America*, to come off in October, from Cowes round the Eddystone lighthouse and back to Cowes, for £100 or £200.

To this proposal Commodore Stevens sent the following reply :

YACHT AMERICA, August 26.

Sir,—I regret extremely that it is not in my power to oblige you, as I propose to leave Cowes immediately after the match with the *Titania* is decided. To afford you, however, an opportunity to try the speed of the *Gondola*, I propose (the Royal Yacht Squadron consenting) that you make the trial at sea on the same day, and at the same time, and on the same course with the *Titania* and the *America*. As a further inducement to you to make this trial, I will wager £1,000 against £200, the *America* beats the *Gondola*.

With respect, I am your obedient servant,

JOHN C. STEVENS.

The owner of *Gondola* did not appear with his vessel on the day of the *America's* race with *Titania*.

The story of the regatta in which the *America* won the cup that bears her name is now, in substance at least, a classic in American yachting literature, though no extended accounts of it were printed here at the time. There is no reference to it in the journal of Mr. James R. Steers, as he started for home by steamer two days before the race took place. Col. Hamilton in his "Reminiscences" refers to it briefly. As the cable had not then linked the old and new worlds, and steamers were twelve days in crossing the Atlantic, the American newspapers, — that in these times print daily columns of cabled news on events across the water, — gave the race but a brief, and necessarily tardy men-

tion, clipped from London exchanges. Probably the best account of the regatta appeared in the *London Illustrated News*, written beyond question by an eye-witness. As it is better than any re-written account could be possibly, it is here given in full :

“The race at Cowes, on Friday se’nnight, for the Royal Yacht Squadron cup of £100, furnished our yachtsmen with an opportunity of ‘realizing,’ as our trans-Atlantic brethren would say, what those same dwellers beyond the ocean can do afloat in competition with ourselves. None doubted that the America was a very fast sailer, but her powers had not been measured by the test of an actual contest. Therefore, when it became known that she was entered amongst the yachts to run for the cup on Friday, the most intense interest was manifested by all classes, from the highest to the humblest, who have thronged in such masses this season to the Isle of Wight; and even Her Majesty and the court felt the influence of the universal curiosity which was excited to see how the stranger, of whom such great things were said, should acquit herself on the occasion. The race was, in fact, regarded as a sort of trial heat, from which some anticipation might be formed of the result of the great international contest to which the owners of the America have challenged the yachtsmen of England, and which Mr. R. Stephenson, the eminent engineer, has accepted, by backing his own schooner, the Titania, against the America.

“The following yachts were entered. They were moored in a double line. No time allowed for tonnage :

NAME.	CLASS.	TONS.	OWNERS.
Beatrice	Schooner	161	Sir W. P. Carew.
Volante	Cutter	48	Mr. J. L. Cragie.
Arrow	Cutter	84	Mr. T. Chamberlayne.
Wyvern	Schooner	205	The Duke of Marlborough.
lone	Schooner	75	Mr. A. Hill.
Constance	Schooner	218	The Marquis of Conyngham.
Titania	Schooner	100	Mr. R. Stephenson.
Gipsy Queen	Schooner	160	Sir H. B. Hoghton.
Alarm	Cutter	193	Mr. J. Weld.
Mona	Cutter	82	Lord A. Paget.
America	Schooner	170	Mr. J. C. Stevens, et als.
Brilliant	3-mast-schooner	392	Mr. G. Ackers.
Bacchante	Cutter	80	Mr. B. H. Jones.
Freak	Cutter	60	Mr. W. Curling.
Stella	Cutter	65	Mr. R. Frankland.
Eclipse	Cutter	50	Mr. H. S. Fearon.
Fernande	Schooner	127	Major Martyn.
Aurora	Cutter	47	Mr. T. Le Merchant.

“Among the visitors on Friday were many strangers,—Frenchmen *en route* for Havre, Germans in quiet wonderment at the excitement around them, and Americans already triumphing in the anticipated success of their countrymen. The cards containing the names and colors of the yachts describe the course

merely as being 'round the Isle of Wight;' the printed programme stated that it was to be 'round the Isle of Wight, inside Norman's buoy and Sandhead buoy, and outside the Nab.' The distinction gave rise, at the close of the race, to questioning the America's right to the cup, as she did not sail outside the Nab Light; but this objection was not persisted in, and the Messrs. Stevens were presented with the cup.

"At 9.55 the preparatory gun was fired from the Club-house battery, and the yachts were soon sheeted from deck to topmast with clouds of canvas, huge gaff-topsails and balloon-jibs being greatly in vogue, and the America evincing her disposition to take advantage of her new jib by hoisting it with all alacrity. The whole flotilla not in the race were already in motion, many of them stretching down towards Osborne and Ryde to get good start of the clippers. Of the list above given the *Titania* and the *Stella* did not start, and the *Fernande* did not take her station (the latter was twice winner in 1850, and once this year; the *Stella* won once last year). Thus only fifteen started, of which seven were schooners, including the *Brilliant* (three-masted schooner), and eight were cutters.

"At 10 o'clock the signal gun for sailing was fired, and before the smoke had well cleared away the whole of the beautiful fleet was under way, moving steadily to the east with the tide and a gentle breeze. The start was effected splendidly, the yachts breaking away like a field of race-horses; the only laggard was the *America*, which did not move for a second or so after the others. Steamers, shore-boats, and yachts of all sizes buzzed along on each side of the course, and spread away for miles over the rippling sea, — a sight such as the Adriatic never beheld in all the pride of Venice; such, beaten though we are, as no other country in the world could exhibit; while it is confessed that anything like it was never seen, even here, in the annals of yachting.

"Soon after they started a steamer went off from the roads, with the members of the sailing committee, Sir B. Graham, Bart., the Earl of Wilton, Commodore, and the following gentlemen: Lord Exmouth, Captain Lyon, Mr. A. Fontaine, Captain Ponsonby, Captain Corry, Messrs. Harvey, Leslie, Greg, and Reynolds. The American Minister, Mr. Abbott Lawrence, and his son, Col. Lawrence, *attaché* to the American legation, arrived too late for the sailing of the *America*, but were accommodated on board the steamer, and went around the island in her; and several steamers, chartered by private gentlemen or for excursion trips, also accompanied the match.

"The *Gipsy Queen*, with all her canvas set, and in the strength of the tide, took the lead after starting, with the *Beatrice*

next, and then, with little difference in order, the *Volante*, *Constance*, *Arrow*, and a flock of others. The *America* went easily for some time under mainsail (with a small gaff-top-sail of a triangular shape braced up to the truck of the short and slender stick which serves as her main-top-mast), foresail, fore-stay-sail, [jib] and jib [flying jib]; while her opponents had every cloth set that the Club regulations allow. She soon began to creep upon them, passing some of the cutters to the windward. In a quarter of an hour she had left them all behind, except the *Constance*, *Beatrice*, and *Gipsy Queen*, which were well together, and went along smartly with the light breeze. The yachts were timed off No Man's Land buoy, and the character of the race at this moment may be guessed from the result :

“*Volante*, 11 h. 7 m. 0 s. ; *Freak*, 11 h. 8 m. 20 s. ; *Aurora*, 11 h. 8 m. 30 s. ; *Gipsy Queen*, 11 h. 8 m. 45 s. ; *America*, 11 h. 9 m. 0 s. ; *Beatrice*, 11 h. 9 m. 15 s. ; *Alarm*, 11 h. 9 m. 20 s. ; *Arrow*, 11 h. 10 m. 0 s. ; *Bacchante*, 11 h. 10 m. 15 s.

“The other six were staggering about in the rear, and the *Wyvern* soon afterwards hauled her wind, and went back towards *Cowes*.

“The *America* speedily advanced to the front and got clear away from the rest. Off *Sandown Bay*, the wind freshening, she carried away her jib-boom; * but, as she was well handled, the mishap produced no ill-effect, and, during a lull which came on in the breeze for some time subsequently, her competitors gained a trifling advantage, but did not approach her. Off *Ventor* the *America* was more than a mile ahead of the *Aurora*, then the nearest of the racing squadron; and hereabouts the number of her competitors was lessened by three cutters, the *Volante* having sprung her bowsprit, the *Arrow* having gone ashore, and the *Alarm* having stayed by the *Arrow* to assist in getting her off.

“But from the moment the *America* had rounded *St. Catherine's point*, with a moderate breeze at S. S. W., the chances of coming up with her again were over. The *Wildfire*, which, though not in the match, kept up with the stranger for some time, was soon shaken off, and of the vessels in the match, the *Aurora* was the last that kept her in sight, until, the weather thickening, even that small comfort was lost to her. As the *America* approached the *Needles* the wind fell, and a haze came on, not thick enough, however, to be very dangerous; and here she met and passed (saluting with her flag) the *Victoria and Albert* royal yacht, with *Her Majesty* on board. *Her Majesty* waited for the *Aurora*, and then returned to *Osborne*, passing the *America* again in *The Solent*. About six o'clock the *Aurora*, being some five or six miles astern,

* “Old Dick” Brown remarked he “was d—d glad it was gone,” as he did not believe in carrying a flying jib to windward.

and the result of the race inevitable, the steamers that had accompanied the yachts bore away for Cowes, where they landed their passengers. The evening fell darkly, heavy clouds being piled along the northern shore of the strait; and the thousands who had for hours lined the southern shore, from West Cowes long past the Castle, awaiting anxiously the appearance of the winner, and eagerly drinking in every rumour as to the progress of the match, were beginning to disperse, when the peculiar rig of the clipper was discerned through the gloom, and at 8 h. 34 m. o'clock (railway time 8 h. 37 m., according to the secretary of the Royal Yacht Squadron) a gun from the flag-ship announced her arrival as the winner of the cup. The *Aurora* was announced at 8 h. 58 m.; the *Bacchante* at 9 h. 30 m.; the *Eclipse* at 9 h. 45 m.; the *Brilliant* at 1 h. 20 m. (Saturday morning). No account of the rest."

Col. Hamilton, who sailed on the *America* in the race, in his reference to it said:

"The wind dropped off near Ryde. The *Volante*, a cutter of forty-five tons, passed the *America*. An hour after the breeze freshened, and the *America* passed the *Volante*, 'and then spared her jib.' After we got round The Needles the wind died away, and we were alarmed by the appearance of a small vessel (the *Fairy*), so light as to be pressed upon us by the gentle puffs which could hardly move the *America*, of 170 tons. Our only fear as to the issue of the race was, that some light vessel like the *Volante* with a light puff of air might keep close to us, and with the tide might pass us.

"The *America* arrived at Cowes at half-past 8 P.M., and was received with the most gratifying cheers. Yankee Doodle was played by the band."

Commodore Stevens, in his speech made at the dinner* given him and his associates on his return from England, made this reference to the race:

"In the race for the Queen's Cup† there were, I think, seventeen entries, most of which, I believe, started. In addition to

* The dinner to Commodore Stevens and his associates, on the return of Commodore Stevens, Edwin A. Stevens and Col. James A. Hamilton from England, was a notable event. It was attended by the leading business and professional men of New York, while Commodore Matthew C. Perry of the United States navy was among the guests. The cup was here publicly shown for the first time. J. Prescott Hall presided at the dinner. Healths were drunk to the Earl of Wilton, in response to a toast by Commodore Stevens, to the Queen, to the President, and to the captain and crew of the *America*, in response to the following sentiment expressed by Charles King, president of Columbia College: "Our Modern Argonauts—they have brought

home not the golden fleece, but that which gold cannot buy, national renown." In responding to this toast, Commodore Stevens described the race of Aug. 22d, 1851, and concluded his speech by saying: "The cup before you is the trophy of that day's victory. I promised, half-jest and half-earnest, when I parted with you, to bring it home to you. The performance of this promise is another exemplification of the truth of the old saw, that 'What is oftentimes said in jest is sometimes done in earnest.'"

† This was a *lapsus linguæ*. "Royal Yacht Squadron cup" was the original name of the *America's* trophy. It was not in any sense a Queen's cup.

them, there were seventy or eighty, or perhaps one hundred under way, in and about the harbor; and such another sight no other country save England can furnish. Our directions from the sailing committee were simple and direct: we were to start from the flag-ship at Cowes, keep the No-Man's buoy on the starboard hand, and from thence make the best of our way round the island to the flag-ship from which we started. We got off before the wind, and in the midst of a crowd that we could not get rid of for the first eight or nine miles; a fresh breeze then sprang up that cleared us from our hangers-on and sent us rapidly ahead of every yacht in the squadron. At The Needles there was not a yacht in sight that started with us. . . . After passing The Needles, we were overtaken by the royal steam yacht Victoria and Albert, with Her Majesty and her family on board, who had come down to witness the trial of speed between the models adopted by the old world and those of the new. As the steamer slowly passed us we had the gratification of tendering our homage to the Queen after the fashion of her own people, by taking off our hats and dipping our flags. At this time the wind had fallen to a light breeze, and we did not arrive at the flag-ship until dark. I could not learn correctly at what time or in what order the others arrived."

Mr. Ackers, owner of the *Brilliant*, protested the race, on the ground that the *America* went inside, instead of outside the Nab light-vessel. As no instructions regarding the passing of this point were contained in the sailing directions given Commodore Stevens, the committee which heard Mr. Ackers' complaint dismissed it, and the cup went to the *America*.

The *Times* described the course around the Isle of Wight, which by the chart was fifty-three nautical miles long, as "notoriously one of the most unfair to strangers that can be selected, and indeed [it] does not appear a good race-ground for anyone, inasmuch as the currents and tides render local knowledge of more value than swift sailing and nautical skill."

It was to be observed from the result that local knowledge could not offset the speed of the *America*, and the seamanship of her rough-and-ready American crew, commanded by "Old Dick" Brown of Sandy Hook, who was assisted of course by an English pilot. Too little credit has, as a rule, been accorded this pilot for his part in the famous race. He was, without knowing it, making history, and for him to have done from motives of patriotism something less than his best would have been an easy matter. Col. Hamilton in his "Reminiscences" speaks warmly of this worthy ally of the Americans, giving him due credit for his invaluable assistance, in the following lines:

"Of course our success in racing, and particularly around the Isle of Wight, would so much depend upon the skill and fidelity

THE LAWSON HISTORY

of our pilot as to make that a subject of deep interest. Our excellent consul at Southampton engaged Mr. Underwood as a pilot for us; who went on board the *America* on her arrival, and whose whole conduct was entirely satisfactory. We had intimations from various sources on that subject.

“The gallant admiral of Portsmouth addressed a letter to Commodore Stevens, offering, if we were not satisfied with the one we had, to send us a pilot who was not only most skilful, well acquainted with all the waters in the neighborhood, but for whose fidelity he would be responsible. This kind offer was promptly declined, on the ground that Commodore Stevens had entire confidence in the knowledge, skill, and fidelity, of our pilot, Mr. Underwood.”

The following interesting account of the winnings of the *America*, aside from the Royal Yacht Squadron cup, and the stake in the race with *Titania*, is from a speech made by Henry Steers, son of James R. Steers, at a meeting of the Seawanhaka Yacht Club in 1877:

“We were rigged (on arrival) pilot-boat fashion, no fore-topmast and no flying jib-boom, and, as we thought we could do better with a flying-jib, we went to Ratsey, at the Isle of Wight, to get him to make the spar. My uncle [George Steers] bet him the price of that jib-boom that we could beat any boat he could name. He named the *Beatrice*. Then we went to a sail-maker to have a flying-jib made, and we bet the price of this sail on the race. We heard that there was some one in Southampton who wanted to bet, and some of the party went there. He wanted to ‘book it,’ as they do over there; but our party had no bank account, no letters of credit; all our money was in a bag aboard the yacht, and we wanted the money put up, so this wager fell through. So all we got on the race was the price of the jib-boom and the sail.”

The English yachtsmen thought the *America* a “shell,” and it is related that some one of them offered to “build a boat in ninety days that would beat her,” for a £500 stake. Commodore Stevens asked that the stake be made £5000, in which event he would wait for a race. Nothing came of this talk, and the race with *Titania* ended the *America*’s racing in English waters under American ownership.

It is worthy of note, to sailormen at least, that the *America* carried thirteen men, her first day in English waters was Friday, the cup was voted as a trophy at a meeting of the Royal Yacht Squadron held on Friday (May 9th, 1851), and also was won by the *America* on Friday (August 22d, 1851), while on it are engraved the names of thirteen vessels defeated by the *America* that day. English salts may advance the argument with perfect

There is little question that had the Canadian sloop been raced under more favorable circumstances as to preparedness, she would have made a better showing. The race was aptly commented upon in *The Spirit of the Times*, as follows :

“The race Wednesday, if race it can be called — amounts to this : Mischief, a tried and proved sloop, confessedly one of the fastest in the world, thoroughly fitted out and equipped, fully manned, and magnificently handled, distanced the *Atalanta*, a new yacht, hastily built, totally untried, and miserably equipped, with sails that misfitted like a Chatham Street suit of clothes, and bungled around the course by an alleged crew, who would have been overmatched in trying to handle a canal boat anchored in a fog.”

This was a little hard on the crew, who were doubtless pretty fair sailors, according to their standard ; but it reflected the sentiment of the day.

Capt. Cuthbert showed that there was good fighting blood in him by announcing at the conclusion of the races that it was his intention to lay *Atalanta* up in New York for the winter and challenge with her again the next spring. His ambition for further attempts with *Atalanta* availed him nothing, however, as a clause in the new deed of gift barred a defeated vessel from challenging a second time until after the lapse of two years from the date of her last races.

Atalanta was taken back to Lake Ontario and there for fifteen years she was raced with success, chiefly under the ownership of W. J. Eyre, of Brighton, Ontario, showing her heels to the fleet in many a hard-fought contest. She was partly burned in 1896. Subsequently she was taken to Chicago and rebuilt, with higher sides and flush decks. She was last heard from in New Orleans.

The seeker for historical detail about the two Canadian challengers finds a peculiar paucity of material. The Royal Canadian Yacht Club of Toronto, which the Countess of Dufferin represented, lost all its records, photographs, and prints of yachts in a fire that destroyed its club-house a few years ago, while the Bay of Quinte Yacht Club, which *Atalanta* represented, has gone out of existence. No authentic pictures of the two Cuthbert boats appeared in newspapers or illustrated periodicals in their time, and their models* do not hang with those of the other challengers for the cup in the model-room of the New York Yacht Club, nor have they been preserved in the family of Capt. Cuthbert, now deceased.

* The original model of *Atalanta*, from which Capt. Cuthbert laid down that vessel, was presented by him to Dr. H. A. Yeomans of Belleville, Ontario, just before *Atalanta* started for New York, and is now in Dr. Yeomans' possession. From this model, loaned the authors by Dr. Yeomans, the lines of *Atalanta* were taken for publication in this book, they never having been published before.

The pen picture of *Atalanta* in this history is from a photograph of that vessel loaned the authors

by Lieut.-Col. William N. Ponton of Belleville. It shows her as she appeared in 1886. Her rig then differed from that carried in the cup races of 1881, when her jib-stay set up from the bowsprit end.

The drawings of the Countess of Dufferin given here are from a photograph of that vessel as she appeared on the stocks before launching, which was loaned the authors by Alexander G. Cuthbert of Chicago, a son of Capt. Cuthbert, who follows his father's business as a designer.

Exhibit H

NEW YORK YACHT CLUB.

earliest meeting, and earnestly invite a friendly competition for the possession of the prize, tendering to any gentlemen who may favor us with a visit, and who may enter into the contest, a liberal, hearty welcome, and the strictest fair play.

Respectfully,

Your Ob't Servant, N. BLOODGOOD,

Secretary New York Yacht Club.

GEORGE L. SCHUYLER'S LETTER.

From the Spirit of the Times, April 15th, 1871.

TO THE EDITOR OF THE SPIRIT: At the meeting of the New York Yacht Club, when the correspondence with Mr. Ashbury in regard to his challenge for the possession of the America's Cup was considered, I listened with some surprise to the construction placed upon the word "match" in the letter of the owners of the America presenting the Cup to the club, viz., that all the vessels belonging to the squadron had a right to start against the challenger in the race; and with still more to the conclusion arrived at, in declining to accept Mr. Ashbury's terms, not to make any counter-proposal, and that he should be required to fall back upon his right "to sail over the usual course of the annual regatta of the yacht club in possession of the Cup."

I have frequently been urged, as the sole survivor of the five gentlemen who presented the Cup to the New York Yacht Club, to make some statement as to their understanding of the word "match," as used by them in the letter of presentation; but my notion of what is due to my club associates in regard to any matter settled by their proceedings at a full meeting has precluded me from doing so until now.

Some time in March the Treasurer of the club called my attention to a legal opinion he had procured from Mr. Peet, and which he had published in THE SPIRIT OF THE TIMES of March 18. As this proceeding by authority of an executive officer of the club opens the question again for discussion, not only by the club, but publicly, I feel at liberty to publish some statements in regard to this subject.

In the first place, it seems to me there is nothing in the letter itself which justifies the construction put upon its terms by the members of the club. Here is the letter:

"TO THE SECRETARY OF THE NEW YORK YACHT CLUB—*Sir*: The undersigned, members of the New York Yacht Club, and late owners of the schooner-yacht America, beg leave through you to present to the Club, the Cup won by the America, at the Regatta of the Royal Yacht Squadron at Cowes, England, August 23, 1851.

"This Cup was offered as a prize to be sailed for by yachts of all nations, without regard to difference of tonnage, going round the Isle of Wight (the usual course for the annual regatta of the Royal Yacht Squadron), and was won by the America, beating eight cutters and seven schooner-yachts which started in the race.

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"The Cup is offered to the New York Yacht Club subject to the following conditions :

"Any organized yacht club of any foreign country shall always be entitled, through any one or more of its members, to claim the right of sailing a match for this Cup with any yacht or other vessel of not less than thirty nor more than three hundred tons, measured by the Custom-house rule of the country to which the vessel belongs.

"The parties desiring to sail for the Cup may make any match with the yacht club in possession of the same that may be determined upon by mutual consent ; but in case of disagreement as to terms, the match shall be sailed over the usual course of the annual regatta of the yacht club in possession of the Cup, and subject to its rules and sailing regulations, the challenging party being bound to give six months' notice in writing, fixing the day they wish to start. This notice to embrace the length, Custom-house measurement, rig, and name of the vessel.

"It is to be distinctly understood that the Cup is to be the property of the club, and not of the members thereof or owners of the vessel winning it in a match ; and that the condition of keeping it open to be sailed for by yacht clubs of all foreign countries upon the terms above laid down shall forever attach to it, thus making it perpetually a challenge-cup for friendly competition between foreign countries.

"J. C. STEVENS,
"HAMILTON WILKES,

EDWIN A. STEVENS,
J. BEERMAN FINLEY,

"GEORGE L. SCHUYLER."

On motion of Mr. Grinnell, it was

Resolved, That the New York Yacht Club accept the Cup won by the America, and presented to them by the proprietors upon the terms and conditions appointed by them.

Resolved, That the letter of Mr. Schuyler, with the enclosure, be entered on the minutes, and the Secretary be requested to furnish to all foreign yacht clubs a copy of the conditions upon which this club holds the Cup and which permanently attach to it.

Adjourned.

N. BLOODGOOD, Secretary.

The letter of Mr. Schuyler (dated July 8, 1857) referred to in the resolutions was to explain that Commodore Stevens (who died June 10, 1857) had forgotten to send the letter to the Secretary at the time it was written (May, 1852), and that in consequence there was no record on the minutes of the club of the gift or its acceptance.

If after the preamble the first condition had been written thus, "Any organized yacht club * * * may claim the right of sailing a match for this Cup against any one yacht or vessel with any yacht or other vessel of not less than thirty nor more than three hundred tons," etc., there could, of course, be no question whatsoever as to the meaning; but I still think such additional words would have been unnecessary and superfluous.

When the word "match" is used in horse racing or kindred sports, without any qualification, it means a contest between two parties—and two only. If A offer to run his horse against B's horse for \$1,000, and this offer is accepted it is a "match"; but if C desires to participate by entering his horse, and by

putting up his thousand dollars, the match becomes a "sweepstakes."

The same rule applies to yachts. The Vesta and Fleetwing made a match for a large sum to sail across the Atlantic. When the Henrietta was admitted into the contest it became "a sweepstakes."

A match may be qualified in terms—as, for instance, A may match his horse or yacht to beat two of B's horses or yachts. A match between two cricket or base-ball clubs means one side against the other side; but the cardinal principle is that, in the absence of all qualifying expressions, "a match" means one party contending with another party upon equal terms as regards the task or feat to be accomplished.

This general definition of the word "match" is confirmed in its application to the tenure of the America's Cup by legal opinions and corroborating testimony of experts in sporting matters.

It is true that Mr. Peet, in his published opinion, says, in conclusion: "Therefore I express with confidence my opinion that Mr. Ashbury has no right to claim a match against a selected one of our fleet"; but his "therefore" follows from an argument based upon the facts that the words "with any yacht or other vessel" refer to the challenger, and not to the challenged—an assumption which, as far as I know, no one has ever denied or ever questioned. From these mistaken premises, however, Mr. Peet infers that the donors of the Cup certainly meant that "just as we with our yacht America sailed against a fleet, single-handed, you must with one yacht sail against us single-handed"—and if that was not their meaning they are convicted of stupid blundering—a *reductio ad absurdum*, as he calls it, which ought somewhat to surprise those who were familiar with the keenness in sporting matters which characterized such men as John C. Stevens, Edwin A. Stevens, and Hamilton Wilkes.

It is also proper for me to state that opinions adverse to my view were procured from Mr. Belmont, and from the President of the Saratoga Racing Association, Mr. W. R. Travers. Neither of these gentlemen, however, answers the question (if it were put to them) as to the accepted meaning of the word match." Mr. Belmont says that in his opinion the conditions "authorize the New York Yacht Club to compel any vessel which wished to compete for that Cup either to sail against a champion yacht selected for that purpose by the club, or against the entire yacht squadron of the New York Club." But if permitted to start their whole squadron in a race, it is difficult to see how the club would be justified in risking the event on the performance of a single vessel. Mr. Travers concludes by saying emphatically: "I am of the opinion that every yacht in the squadron has a right to sail in the match."

On the other hand, Judge Blatchford, of the United States District Court, in his written opinion, sums up as follows: "It would be a departure from both the *letter and the spirit* of the deed of gift for such club to insist that the challenging party shall sail the match against more than a single yacht."

Mr. E. H. Stoughton, a lawyer of distinction in New York, has written an opinion in which he gives the same interpretation as Judge Blatchford to the meaning of the word "match" in this letter of presentation. His opinion is endorsed by Judge Comstock, late Chief Judge of the Court of Appeals in

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this State, and by Judge Edwards Pierrepont, of New York City.

The New York *SPRINT* or *THE TIMES*, considered as perhaps the highest authority on sporting matters, in an editorial article on this same subject (April 1), in which the Editor comes to certain conclusions as to the *intentions* of the donors of the Cup (which, perhaps, may be modified when he reads what I have presently to say on that subject), defines the word "match" as follows: "The whole difficulty, it appears to us, has arisen from a failure to grasp the sense in which the deed uses, and properly uses, the word 'match.' In ordinary language, 'sailing a match' means sailing between two vessels only—as the ocean match between the Cambria and Dauntless; and it would not be proper to say there was an ocean match between the Henrietta, the Fleetwing, and the Vesta. In the latter case yachtsmen such as the Messrs. Stevens were would say 'race,' not 'match;' so that if Mr. Ashbury is going to sail 'a match' for this Cup he has a right to sail against a single vessel."

And this definition of the word "match" is sustained by all yachtsmen "such as the Messrs. Stevens were," as well as by all turfmen of the same period with whom I have conversed on the subject.

I now pass to the intentions of the donors.

In reply to a note from Commodore Stebbins of March, 1870, I said: "I can state with certainty that all the signers of the letter to the New York Yacht Club presenting the Cup won by the America in 1851 considered the word 'match,' in connection with the conditions proposed by them, as meaning that but one vessel could start against the party challenging for the possession of it." Although I repeat this assertion without any qualification, yet so much has been said and written as to what our intentions were—or, rather, ought to have been,—that I feel desirous of placing upon record some matters connected with the America's cruise in 1851, which had much to do with the conditions upon which it was determined by us to offer the Cup to the New York Yacht Club as a challenge-cup.

The great Exhibition, or World's Fair, as it was called, to be held in England in 1851, the first of these international exhibitions, created very great interest throughout Europe and America, and much correspondence took place in regard to contributions from the United States. A letter was shown to Commodore Stevens and myself, in which mention was made of the great reputation of the New York pilot boats, the rumors of extraordinary performances of the cutter-yacht Maria, and suggesting that as there would be an unusual collection of yachts at Cowes, the New York Yacht Club (then in its sixth year) should send out a representative yacht to sail an "international match."

I will not trespass on the patience of your readers by giving any account of the circumstances attending the building of the yacht America, her private trials and defeat by the Maria, and other details which might perhaps be of interest to yacht antiquarians, but call attention directly to the fact that the America went to England for the purpose of sailing a *match*, if one could be made on satisfactory terms after her arrival; and that at the time her keel was laid (I speak for myself positively, and with great confidence for my associates) we did not even know that a Cup, to be sailed for at Cowes, open to all nations, had been offered by the Royal Yacht Squadron.

A letter from the Commodore of the Royal Yacht Squadron to Mr. Stevens,

received in March 1851, a few weeks before the *America* was launched, offers the hospitalities of the club to those members of the New York Yacht Club and their friends who, he hears, are building a schooner "which it is their intention to bring over to England this summer." No allusion is made to the Cup race in this letter, nor is there any in Commodore Stevens' reply.

When, precisely, we knew that such a regatta was open to us, I cannot now say—nor is it material; for whether we entered for it or not was to us entirely a secondary consideration, depending upon the result of our contemplated match. And here I wish to say, once for all, that in hospitality, kindness, and social attentions of all sorts nothing could excel the treatment Commodore Stevens and his friends experienced at the hands of their English fellow-yachtsmen and others, including the official services of the Admiral of the station at Portsmouth, an order from Lord Palmerston to admit the *America* in all their ports on the same footing as English yachts, and in many other ways.

But when it came to sporting matters it was a very different affair. The *America* was sent out under easy sail to Havre, arrived there in good order, and was there put in racing trim. George Steers, her constructor, accompanied her, and there made some alterations in her stem, which had been decided upon before she left New York. When ready, she left Havre for Cowes. Owing to a very dark night, with thick fog, the *America* came to anchor some five or six miles from Cowes. At nine o'clock the following morning a breeze sprang up, and the cutter *Laverock* ran down from Cowes and *insisted* (I can use no better expression,) by tacking round and about lying to, to try the *America's* qualities then and there.

Commodore Stevens finally concluded to gratify the *Laverock*, and in a very few moments, as graphically described by himself, "the *America* worked quickly and surely ahead and to windward of her wake." As a consequence, not many hours after anchoring at Cowes it was well understood, from the known capacity of the *Laverock*, that certainly no schooner, and probably no cutter of the Royal Yacht Squadron could beat the *Yankee* in sailing to windward *in a moderate breeze*.

After a pleasant interchange of hospitalities and visits, Commodore Stevens proceeded to business. At first an offer was made to sail a match against any schooner—then, growing bolder, against either schooner or cutter. To these proposals no response was made. After a few days it was intimated to Commodore Stevens that if a sufficient amount would be staked to make it an object, what he desired could be brought about; whereupon our Commodore, with his usual promptness, and regardless of the pockets of his associates, had posted in the club-house at Cowes a challenge to sail the *America* in a match against any British vessel whatever for any sum from *one to ten thousand* guineas, merely stipulating there should be not less than a six-not breeze.

This challenge was left open until the 17th of August, but no acceptance or reply to it was received.

The late Robert Stephenson came forward and offered to match his schooner *Titania* (100 tons) for £100, to sail twenty miles to windward and back; but though this offer was at once accepted (the match was sailed on the 28th of August in heavy weather and the *Titania* beaten nearly an hour), still this by

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no means covered the ground for which Mr. Stevens was contending.

The schooner *Titania* had no claim to be selected as a champion yacht of the Royal Yacht Squadron, and in winning a match against her, no proof was thereby afforded of the America's superiority to all others. We maintained that having crossed the Atlantic to sail a "national match," they were bound to give us a trial with a selected vessel, that the relative proficiency of the two countries in yachting might be publicly shown. All that could be obtained was a reference to the regatta of the 22d of August, in which the America had a right to enter if her owners thought proper to run the hazard of such an uncertain test.

At this stage of the affair the question arose as to the proper course to be pursued by the owners of the America, and after due deliberation it was at once determined to send the yacht immediately back to the United States.

As an illustration of the feeling in England in regard to this refusal of the yacht clubs to sail a match with the America, and as the press is generally a true reflection of public sentiment, I give some extracts from the correspondent of the London *Times* at Cowes, August 10, 1851:

"Most of us have seen the agitation which the appearance of a sparrow-hawk in the horizon creates among a flock of woodpigeons or skylarks when, unsuspecting all danger and engaged in airy flights, or playing about over the fallows, they all at once come down to the ground and are rendered almost motionless for fear of the disagreeable visitor. Although the gentlemen whose business is on the waters of the Solent are neither woodpigeons nor skylarks, and although the America is not a sparrowhawk, the effect produced by her apparition off West Cowes among the yachtsmen seems to have been completely paralysing. I use the word 'seems' because it cannot be imagined that some of those who took such pride in the position of England as not only being at the head of the whole race of aquatic sportsmen, but as furnishing almost the only men who sought pleasure and health upon the ocean, will allow the illustrious stranger to return with the proud boast to the New World that she had flung down the gauntlet to England, Ireland, and Scotland, *and that not one had been found to take it up.* If she were victorious after a gallant contest, all that could be said was that the American builders had put together a lighter, swifter, and better-made mass of wood and iron than any the English builders had matched against her. No one could affirm there was the least disgrace attached to us from the fact. But if she be permitted to sail back to New York with her challenge unaccepted, and can nail under it as it is fastened up on one of her beams that no one dare touch it, then there will be some question as to the pith and courage of our men, and yachting must sink immeasurably in public estimation, and must also be deprived of the credit which was wont to be attached to it of being a nursery for bringing up our national naval spirit to a respectable and well-grown maturity. The discomfiture, I repeat, would be as nothing if we were beaten after a well fought-field, compared to the discredit of running away or evading a contest with a vaunting, but certainly an honorable enemy."

In the same letter it is said: "The course round the Isle of Wight is notoriously one of the most unfair to strangers that can be selected, and, indeed, does not appear a good race ground to any one, inasmuch as the current and

tides render local knowledge of more value than swift sailing and nautical skill."

And further, dwelling upon the dissatisfaction of outsiders with yachtsmen for not accepting Mr. Stephens' challenge, he says: "One boatman made an offer on behalf of his mates to man a crack cutter, if the gentlemen would risk their money, run the Yankee to Cape Clear and back, the worse the weather the better, and to crack on till the masts went to —. The proposition was not acceded to, greatly to the disgust of these naval Curtifi."

Urged, however, by outside pressure from Americans, and by the earnest desire of English friends who were dissatisfied with the want of spirit evinced by their yacht clubs, and knowing also that the relative speed of the America to English yachts was infinitely greater than it was supposed to be when he left home, Mr. Stevens consented to enter her for the regatta, taking care to announce that unless there was a good breeze he should not start.

Here are the entries for this regatta. No allowance of time for tonnage; yachts to start at 10 A.M. from Cowes, and sail round the Isle of Wight. No time prescribed for accomplishing the distance, so that the Cup might be won in a tempest or a drift—with entries ranging from 892 to 47 tons:

Name.	Class.	Tons.	Owners.
Beatrice.....	Schooner.....	161.....	Sir W. P. Carew.
Volanto.....	Cutter.....	48.....	Mr. J. L. Craigie.
Arrow.....	Cutter.....	84.....	Mr. T. Chamberlayne.
Wyvern.....	Schooner.....	205.....	Duke of Marlborough.
Ione.....	Schooner.....	75.....	Mr. A. Hill.
Constance.....	Schooner.....	218.....	Marquis of Conyngham.
Titanic.....	Schooner.....	100.....	Mr. R. Stephenson.
Gipsy Queen.....	Schooner.....	160.....	Sir H. B. Hoghton.
Alarm.....	Cutter.....	198.....	Mr. J. Weld.
Mona.....	Cutter.....	82.....	Lord A. Paget.
America.....	Schooner.....	170.....	Mr. J. C. Stevens, etc.
Brilliant.....	3-mast-schooner.....	392.....	Mr. G. H. Ackers.
Bacchante.....	Cutter.....	80.....	Mr. B. H. Jones.
Freak.....	Cutter.....	60.....	Mr. W. Curling.
Stella.....	Cutter.....	65.....	Mr. R. Frankland.
Eclipse.....	Cutter.....	50.....	Mr. H. S. Fearon.
Fernando.....	Schooner.....	127.....	Major Martyn.
Aurora.....	Cutter.....	47.....	Mr. T. Le Merchant.

The Titania, Stella, and Fernando did not start.

I do not propose unnecessarily to add to the length of this communication by giving any account of the race, further than to call attention to three points.

First. That starting at ten o'clock, with a light westerly wind, at about 11:30, after the yachts had turned No Man's Land buoy, and were beating to the westward, the wind freshened to a good six-knot breeze for a short time, at the end of which the America's position was two miles to windward of the nearest yacht. The wind then died away, and the yachts beat slowly up under Shanklin Chine, with a strong head tide, the America still widening the distance. At three o'clock the wind freshened again, and when at 5:40 P. M. (the America having carried away her jibboom) rounded the Needles, the

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Aurora (forty-seven tons, the smallest entry) was, by the best English report of the race, about *eight miles astern*, and the rest of the squadron were not to be seen.

Second. That the wind again becoming light and the tide ahead, the America anchored, winner of the Cup, at 8:35 p. m. The Aurora at 8:55 p. m.

Had there been allowance of time for tonnage, the Aurora by Ackers' scales, would have been beaten *less than two minutes*, although at one time *eight miles astern*; or had the drifting continued an hour or two longer, it would have given her the Cup—in which case I have no doubt the America's superiority, instead of being a national triumph, would have been confined to the knowledge of experts only.

Third. That Mr Ackers, owner of the Brilliant, sent in a protest the next day against awarding the Cup to the America, on the ground that she passed on the wrong side of the Nab Light. Fortunately the sailing directions sent to Commodore Stevens gave no instructions on that head, and the complaint was therefore necessarily dismissed.

I think any candid person will admit that when the owners of the America sat down, fresh from these experiences, to write their letter of gift to the New York Yacht Club, they could hardly be expected to dwell upon an elaborate definition of their interpretation of the word "match," as distinguished from a "sweep-stakes" or a regatta; nor would he think it very likely that any contestant for the Cup, upon conditions named by them, should be subjected to a trial such as they themselves had considered unfair and un-sportsmanlike.

In the numerous articles which have been published concerning this letter, great weight is given to the circumstance that its preamble sets forth the conditions under which the Cup was won by the America.

As an argument, either as to the intention of the donors or the terms of the gift expressed in the body of the letter, this preamble or any other which might have been inserted, is entitled to no consideration.

THE SPIRIT OF THE TIMES, in the article from which I have already made an extract, suggests that the match made may be considered as one made between the two clubs, that the challenging club might name as many yachts as it chose to send over, and the club in possession would consequently have the right to name more than one with which to defend it. This is certainly correct in one sense, but the writer allows that it admits of a doubt on account of the six months notice required of the dimensions, name, etc. "of the vessel." But should any foreign yacht club desire to send over half a dozen yachts, which is highly improbable, the prescribed notice to the possessor of the Cup of the dimensions, name, etc., of *each* vessel must be given. The club in possession, unless willing to risk one vessel against the whole, would certainly not forego its right, if no terms were made by mutual consent, to name at the start, and not before, a competitor for each one of the challenging party.

It is easy to see how the laps of time (nineteen years) since that letter was written, during which the excitement as to the America's performance had died out, and nearly all of the participants and most of the yachtsmen of that period have passed away, tends to complicate matters which once seemed

clear as day, and which it was supposed could never be questioned.

To illustrate this, at the risk of being tedious, I will add a slight sketch of what occurred at the meeting of the donors when the terms of the gift of this Cup to the New York Yacht Club were finally passed upon. All were present except Mr. Wilkes, who was in Europe, but who was represented by Mr. William E. Laight, a gentleman as well skilled as his principal in all that pertained to racing matters on land or water. I brought with me the draft of the letter, its terms having been previously discussed, which read in all respects *but one* as it now stands recorded on the minutes of the club. And that difference was the omission of the preamble, which has caused so much comment.

It must be remembered that the New York Yacht Club in 1851 was not a very large or very flourishing affair. Yachting had not as yet taken hold of our people as a national sport, and its interests were concentrated in a small number of persons. It was the success of the *America* and the excitement aroused by the result of her cruise which gave a new impulse to yachting in our country. About fourteen yachts composed the New York Yacht Squadron. The sloop *Maria*, excelling everything in speed then, as she did to the last, was not reliable for a match in rough and heavy weather, on account of her enormous spar; the *America* was sold in England, and the *Cornelia*, *Union*, *Sybil*, and *Spray* were the best and largest of the fleet.

It was also supposed upon good grounds, through letters and otherwise, that in the coming season, or by the next one at furthest, we might expect to be challenged for the possession of the Cup. After determining for obvious reasons, that the Cup should always remain the property of club which he represented, and not to the member or members whose vessel might win it, it was decided—

First. That the yacht club in possession could be challenged only on the part of a club of different nationality, so as to make it a challenge-cup for friendly competition between foreign countries, and not open to clubs of the same nationality.

Second. That the match might be sailed with a yacht or other vessel.

There were as many as eight hundred yachts belonging to English clubs, from 400 tons down. It never occurred to us that if a challenge was sent to sail a match on the open sea—say, for example, 20 miles to windward and back (in 7 hours or no race), or any other fair offer, that American yachtsmen would hesitate a moment in accepting it. Although at this time this distinction between yacht and vessel has lost its value, it might then have been desirable to rig yacht-fashion some pilot-boat from among those about being built by George Steers as our representative in an ocean race. By this condition, therefore, it is not necessary that the vessel sailing should be a yacht, or if a yacht, that she must belong to the club which uses her for attack or defense.

Third. The required six months' notice in writing to be given, embracing the length, Custom-house measurement, rig, and name of the vessel.

This was to enable the party in possession to select, buy, or build a vessel for the match, besides having the privilege of having on hand any number of vessels on the day of the race; and naming the one selected only at the start.

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At this point some one remarked to Commodore Stevens that these terms were pretty hard on the challenger; at all events that he meant in this case to reverse his position from what it was when he offered at Baltimore his famous challenge of "Eclipse against the World," accepted by Col. Johnson of Virginia, who named his horse Sir Henry at the post. "Well hang it, man," said the Commodore, "tack on something about the regatta at Cowes, to remind them of what sort of chance *we* had." And so the preamble was then and inserted.

Finally. The question of total disagreement as to terms and details of the match was discussed; and it is but just to say that it was only in the light of the difficulty we had experienced in getting a match for the America in England that this was considered at all. Yachtsmen "such as the Messrs. Stevens were" did not suppose, if anyone crossed the Atlantic to sail a match for this Cup, that he would not receive such proposals in return, if his own were not acceptable, as would be satisfactory to any fair-minded sportsman. We were not quite so sure of our position, should we lose the Cup and go after it a second time. We therefore could decide no better plan, for what we supposed would be resorted to only in the last extremity, than to name *for the course* over which a match should be sailed the one used by the club in possession for its annual regatta. In our case the course to be sailed by a sea-going yacht after crossing the Atlantic, if driven to this alternative would have been, at that time, "from opposite the club-house at Hohoken to the Southwest Spit and back."

It seems to me that the present ruling of the club renders the America's trophy useless as "a Challenge Cup," and that for all sporting purposes it might as well be laid aside as family plate. I cannot conceive of any yachtsman giving six months' notice that he will cross the ocean for the sole purpose of entering into an almost hopeless contest for this Cup, when a challenge for love or money to meet any one yacht of the New York Yacht Squadron in any fair race would give him as great a triumph, if successful, or if his challenge were not accepted, as his heart could desire. If the ownership of the "America's Cup" depended upon the result, it would add greatly to the interest of the match; but the absence of that inducement would scarcely compensate for the long odds of sailing against the whole fleet.

In making this statement, I do not intend to controvert the right of the New York Yacht Club to determine what interpretation attaches to the conditions of their acceptance of the Cup. That question must be determined by the meaning of the instrument itself, as it stands, and not by referring back to what was *intended* by the parties who signed it. Mr. Ashbury's intimation of a resort to legal rights in a matter of this kind can hardly be seriously entertained.

I have availed myself of the opportunity afforded by the authorized publication of Mr. Peet's legal opinion to dispel the idea that the conclusion now arrived at is at all in harmony with the intentions of the donors of the Cup. In doing so I have only discharged what I consider a duty to my associates and myself.

GEORGE L. SCHUYLER.

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Exhibit I

"The Yacht Clubs"
Times of London
August 18, 1851

(FROM OUR OWN CORRESPONDENT.)

COWES, Aug. 16.

Most of us have seen the agitation which the appearance of a sparrowhawk in the horizon creates among a flock of woodpigeons or skylarks, when unsuspecting all danger, and engaged in airy flights or playing about over the fallows, they all at once come down to the ground and are rendered almost motionless by fear of the disagreeable visitor. Although the gentlemen whose business is on the waters of the Solent are neither woodpigeons nor skylarks, and although the America is not a sparrowhawk, the effect produced by her apparition off West Cowes among the yachtsmen seems to have been completely paralysing. I use the word "seems," because it cannot be imagined that some of those who took such pride in the position of England as not only being at the head of the whole race of aquatic sportsmen, but as furnishing almost the only men who sought pleasure and health upon the ocean, will allow the illustrious stranger to return with the proud boast to the New World that she had flung down the gauntlet to England, Ireland, and Scotland, and that not one had been found to take it up. If she were victorious after a gallant contest, all that could be said was that the American builder had put together a lighter, swifter, and better made mass of wood and iron than any the English builders had matched against her. No one could affirm there was the least disgrace attached to us from the fact. But if she be permitted to sail back to New York with her challenge unaccepted, and can nail under it as it is fastened up on one of her beams that no one dared touch it, then there will be some question as to the pith and courage of our men, and yachting must sink immeasurably in public estimation, and must also be deprived of the credit which was wont to be attached to it, of being a nursery for bringing up our national naval spirit to a respectable and well-grown maturity. The discomfiture, I repeat, would be as nothing if we were beaten after a well fought field, compared to the discredit of running away or evading a contest with a vaunting but certainly an honourable enemy. And what, after all, if we are afraid of a phantom? I do not mean for a moment to assert that the America is not the most formidable competitor against which any yacht could be matched; but suppose she has her weak point of sailing, what a chuckle her owners would have over us for not trying to find it out! She has defied every sort of craft, from the eccentric "fancy" of the amateur rigger, such as the Brilliant, down to the most orthodox cutter, and her challenge is a loud sounding one; but is it not just possible that though she may beat a schooner or a cutter on several points of sailing, the America may have a failing which a long match in a stiff breeze might render visible to a quick eye in a course round the Eddystone or to Ushant and back? Most undoubtedly it is. The vessel never yet was built that could sail equally well on all points and in all weathers. I trust that, whether she runs or not in the Cowes regatta, her qualities will be tested to the utmost by some of our first-class yachts in a long run. It is said that Lord Cardigan has offered to lay 500*l.* against her, but I cannot say if the subscription, of which there was some talk lately, has been progressing or not. At the very worst we can but entreat of Messrs. White and Carter, *et hoc genus omne*, to lay aside the delusion they are the best builders in the world, to take a hint even from an enemy, and to follow the models of the Yankees instead of persisting in their present shape and mould of bow, beam, quarter, and run.

giveness for the ball at the clubhouse, she made sail in the evening for Cowes, and bowled away like a seagull, leaving all the boatmen and yachtsmen with a deep sense that she was "a tartar," the former, in particular, being duly offended with the liberal display of stars and stripes on her ensign and bargee on such a crack craft, and irritated with "the gentlemen" for not accepting her challenge. Indeed, I hear one liberal offer was made by a boatman on behalf of his mates, to man a crack cutter if "the gentlemen" would risk their money, run the Yankee to Cape Clear and back, the worse the weather the better, and "to crack on till the masts went to ——" The proposition was not acceded to, greatly to the disgust of these naval Curtii.

The proceedings at Ryde regatta terminated to-day with a meeting of the committee, who, I hope, will do something to make a match with our friend at Cowes, and with a promenade, in aid of the Infirmary, in the grounds of Sir A. Clifford at Westfield, at which Her Majesty actually made her appearance and was received with suitable marks of respectful delight. Thus ended a regatta, which was not remarkable for success, though the Royal Victoria Yacht Club most certainly deserve it.

The Royal Yacht Squadron Regatta begins at Cowes on Monday (this day).

The programme is as follows:—

"Her Majesty's Cup will be run for on this day by large class cutters of the Royal Yacht Squadron (105 tons and above), if three enter before midnight, August 1; if not, it will be open to Royal Yacht Squadron cutters from 50 and under 100 tons; to close at midnight, Saturday, August 9. On Tuesday, August 19, the Royal Yacht Squadron's annual dinner. On Wednesday, August 20, his Royal Highness Prince Albert's Cup, by large class Royal Yacht Squadron schooners (140 tons and above), if three enter before midnight, August 1; if not, it will be open to the small class Royal Yacht Squadron schooners (under 140 tons); to close at midnight, Saturday, August 9. On Thursday, August 21, the Royal Yacht Squadron's annual ball. On Friday, August 22, the Royal Yacht Squadron's 100*l.* Cup; open to yachts belonging to the clubs of all nations; to close at midnight, August 16. No time allowed for tonnage. Three vessels must enter and start for each prize, or no race. Fireworks." The last will be the race of the regatta of the year, of the yachting world. As far as any list can be relied on—yachting being as uncertain as horseracing—the following vessels have entered for the cup:—

Titania	...	...	100	...	Mr. G. R. Stephenson, M.P.
Freak	...	...	60	...	Mr. W. Curling.
Bacchante	...	...	80	...	Mr. B. H. Jones.
Fernande	...	...	123	...	Major M. Martyn.
Arrow	...	...	84	...	Mr. T. Chamberlayne.
Volante	...	...	48	...	Mr. J. L. Craigie.
America (American)	...	...	170	...	Mr. J. C. Stevens.

The Titania is an iron boat, won nothing last year, and will, it is said, be "drowned" if she starts against the Yankee in bad weather. The Freak won nothing last year; the Bacchante ditto. The Fernande is a fine schooner; won twice last year, once this. The Arrow is a splendid cutter for light winds, and the Volante is a very fast and worthy little cutter, which will have an excellent chance if the great schooner cannot get her much vaunted desideratum of a strong breeze and a rough sea. The anxiety attending this race is deep and earnest. All I can say is, "May the best man win;" but I would recommend no one to think he can be conqueror by getting another to steal the wind out of the American's sails, for if that is his only chance of getting away he will be lamentably beaten. The original challenge was only to the 17th of August, but there is no doubt the Messrs. Stevens will extend it if any one desires it.

There is something strange about the sudden start this challenge has given the clubs. They have been reading month after month of the giant races, 3,000 miles long, over the Atlantic, between British and American steamers, without the least notion that anything afloat could touch their yachts. They heard it said that the Americans were improving vastly in shipbuilding. Some even told them that if they would put British-made boilers into their steam ships that we should be beaten most unmistakeably and hopelessly, owing to the better models of the Yankee builders. They knew that the New York pilot boats were matchless for speed and sea going properties in their class; but they are as much petrified at beholding an American yacht anchor in Cowes, and at getting a challenge from her, as if she were a Chinese war junk or a Malay prahu. Surely they had some indications of what was coming. For the first time appeared in Hunt's List this year the names of "The New York Yacht Club," Commodore, Mr. J. C. Stevens, Maria, 160 tons; and then came a return of 14 vessels, most of them of good size, and owned by men of thorough-going Saxon names. And yet when the America, which has been beaten by the aforesaid Maria, makes her number before the Royal Yacht Squadron Clubhouse, all the members rub their eyes and polish the ends of their glasses to take a surprised look at her. The America has been already briefly described, and it is enough to add that she was built by Steers of New York, on the model invented many years ago by one Daniels, of the same place, for the pilot boats, and that her lines differ very little from those generally adopted in such vessels.

Day after day gentlemen in most wonderful costumes, ranging in style from Dirk Hatterick to Wright in an Adelphi farce, sit at the windows or in the porch of the clubhouse with telescope to eye, staring at the phenomena, or they row around her in grotesque little punts, or go on board and have a chat with the commodore, his brother, and Colonel Hamilton, three very cautious and gentlemanly persons—as downright 'cute and keen as the smartest in the States, but who can hardly disguise, nevertheless, their pleasure at John Bull's astonishment and evident perturbation, owning, as he does, a fleet of about 800 yachts of all sizes—from nearly 400 tons down to three tons. At the same time, to show that they are not above taking a hint, they have prepared a jibboom and jib, and there is also talk of a gaff topsail having been sent on board by Ratsey, of Cowes. All the week past she lay quietly at her moorings till Friday. Ryde regatta was going on, but she had withdrawn on the very weak ground that she had put forward a challenge to all the rest of the world up to the 17th of August, though it is now generally thought that withdrawal was only a piece of subtlety—in vulgar words "a dodge"—to escape the course round the Isle of Wight, which is notoriously one of the most unfair to strangers that can be selected—and, indeed, does not appear a good race-ground to any one, inasmuch as the current and tides render local knowledge of more value than swift sailing and nautical skill.

All the people at Ryde appear to be labouring under a perpetual delusion that "the Queen is coming;" and even on Friday last the mania was as rife as ever, though it was known that Her Majesty was engaged in giving the usual annual *fête* to the farmers' labourers and the crews of the yachts. For some reason or other, though there was a whole armada of yachts at Ryde on Friday, there was great difficulty in getting up a race. For the 50*l.* Cup, for square-rigged yachts of the Royal Victoria Yacht Club, only two entries were made, so that the match could not come off as the club requires three entries for each race. For the second race, prize 50*l.* Cup, for cutters of 75 to 105 tons of the Royal Victoria Yacht Club, only the Gondola entered, an 87 ton cutter, which Mr. Woodhouse, the owner, is said to be desirous of running against the America; so there was no race. At last three fore and aft schooners of the Royal Victoria Yacht Club—the *Fernande*, 126 tons, Major Martyn; *Anaconda*, 110 tons, Sir C. Ibbetson; *Bianca*, 31 tons, Mr. Webster (the *Fernande*, it will be seen, is one of the competitors with the America for the Royal Yacht Society 100*l.* Cup on Friday next) entered. The *Bianca* declined the contest before the race was half over, and the match was left between the other two, the *Anaconda* proving the better boat in such weather as there was, and finishing the course, which was twice round from the starting vessel off Ryde pier to the Brambles round the Calshot light vessel, and then round the Nab in advance of the *Fernande*. The event of the day, however, was the appearance of the Yankee. I suppose she was tempted out by the breeze of wind, which was not, however, quite good for six knots, by the sailing of several crack schooners from Cowes, and by the desire to run past Osborne decorated for the *fête*, and with the Royal yachts lying dressed in the roads, close under the house, so that the Queen might see what a craft brother Jonathan could turn out. Whatever the reason, out she came, with the wind on her quarter (after some three or four schooners had got well ahead of her), under mainsail, foresail, and the new jib. She went along very steadily and well up to Ryde, but did not show any great superiority till she was off the pier, about 3.20, when she seemed as if she had put a screw into her stern, hoisted her fore and aft foresail, and began "to fly" through the water. She passed schooners and cutters one after the other just as a Derby winner passes the "ruck," and as the breeze freshened slid with the speed of an arrow out towards the Nab, standing upright as a ramrod under her canvas, while the schooners were staggering under every stitch they could set, and the cutters were heeling over under gaff topsails and balloon jibs. It was remarked by the crowd on the pier head that there was scarcely any foam at her bows, nor any broken water raised in a mass before them; but that the waves appeared to fall away under her keel and sides, offering the *minimum* of resistance to her course, owing to the peculiar form of her "entry." Still, the nauticals looked knowing, and said, "Oh ay, this is all very well for a schooner on this wind—let us see how she'll come back, when the wind will be a point or so worse for her!" The America soon gave them an opportunity of judging on this point too. She went about in splendid style, a little short of the Nab, spinning round like a top, and came bowling away towards Cowes as fast if not faster than ever. As if to let our best craft see she did not care about them, the America went up to each in succession, ran to leeward of every one of them as close as she could, and shot before them in succession, coming to anchor off Ryde at least two miles, as it seemed to me, ahead of any of the craft she had been running against. Having landed the Messrs.

Exhibit J

THE COWES REGATTA.

(FROM OUR OWN REPORTER.)

COWES, SATURDAY NIGHT.

The telegraphic despatch which appeared in *The Times* this morning stated the "great fact" that the America had beaten the yachts which started against her on Friday for the Royal Yacht Squadron Cup of 100*l.* value in the most complete and triumphant manner; but, from the lateness of the hour at which the race concluded, it was impossible to send up to town any detailed account of her victory. It now remains to give the particulars of the event as one of no ordinary interest. A large portion of the peerage and gentry of the united kingdom left their residences and forsook the sports of the moors to witness the struggle between the yachtsmen of England, hitherto unmatched and unchallenged, and the Americans who had crossed the Atlantic to meet them. All the feelings of that vast population which swarms in our southern ports and firmly believes in "Rule Britannia," as an article of national faith; all the prejudices of the wealthy aristocracy and gentry, who regarded the beautiful vessels in which they cruised about the Channel and visited the shores of the Mediterranean every summer as the perfection of naval architecture, were roused to the highest degree, and even the Queen of England did not deem the occasion unworthy of her presence. Until within the last few days no Englishman ever dreamed that any nation could produce a yacht with the least pretensions to match the efforts of White, Camper, Batey, and other eminent builders. In the *Yacht List* for this very year there is an assertion which every man within sight of sea water from the Clyde to the Solent would swear to—that "Yacht-building was an art in which England was unrivalled, and that she was distinguished pre-eminently and alone for the perfection of science in handling them." From the Royal Cork Club, which was founded in 1720, to the Royal London, founded in 1849, there are 17 yacht clubs in various parts of the united kingdom—ten English, four Irish, two Scotch, and one Welch, and not one of them had ever seen a foreigner enter the lists in the annual matches. It was just known that there was an Imperial Yacht Club of St. Petersburg, maintained, it was affirmed, by the Imperial Treasury, to encourage a nautical spirit among the nobility, and that some 10 or 11 owners of yachts at Rotterdam had enrolled themselves as the "Royal Netherlands Yacht Club;" but, till the America came over, the few who were aware of the fact that there was a flourishing club at New York did not regard it as of the slightest consequence, or as at all likely to interfere with their monopoly of the glory of the manliest and most useful of all sports. The few trial runs the America made after her arrival proved she was possessed of great speed, and that the owners were not so little justified as at first they had been thought in offering to back an untried vessel against any yacht in our waters for the large sum of 10,000*l.*, or for a cup or piece of plate. As the day of the Royal Yacht Squadron's grand match drew near the entries became numerous, and 1851 will be celebrated for the largest number of starters for the Derby and for the 100*l.* cup respectively, that were ever known, so far as I can gather. The conduct of the Americans since their arrival in the Solent had been bold, manly, and straightforward—qualities which Englishmen respect wherever they are found, and love to see even in an opponent.

In the memory of man Cowes never presented such an appearance as upon last Friday. There must have been upwards of 100 yachts lying at anchor in the roads; the beach was crowded from Egypt to the piers—the esplanade in front of the Club thronged with ladies and gentlemen, and with the people inland, who came over in shoals with wives, sons, and daughters for the day. Booths were erected all along the quay, and the roadstead was alive with boats, while from sea and shore arose an incessant buzz of voices mingled with the splashing of oars, the flapping of sails, and the hissing of steam, from the excursion vessels preparing to accompany the race. Flags floated from the beautiful villas which stud the wooded coast, and ensign and burgee, rich with the colours of the various clubs or the devices of the yachts, flickered gaily out in the soft morning air. The windows of the houses which commanded the harbour were filled from the parlour to the attic, and the old "salts" on the beach gazed moodily on the low black hull of "the Yankee," and spoke doubtfully of the chances of her competitors. Some thought "the Volante" might prove a teaser if the wind was light; others speculated on "the Alarm" doing mischief if there was wind enough to bring out the qualities of the large cutter in beating up to windward and in tacking; while more were of opinion that the America would carry off the cup, "blow high, blow low." It was with the greatest difficulty the little town gave space enough to the multitudes that came from all quarters to witness an event so novel and so interesting, and the hotels were quite inadequate to meet the demands of their guests.

Among the visitors were many strangers—Frenchmen en route for Havre, Germans in quiet wonderment at the excitement around them, and Americans already triumphing in the anticipated success of their countrymen. The cards containing the names and colours of the yachts described the course merely as being "round the Isle of Wight;" the printed programme stated that it was to be "round the Isle of Wight, inside Noman's Buoy and Sandhead Buoy, and outside the Nab." The distinction, it will be seen, might have been productive of larger consequences than could be imagined. The following yachts were entered, the figures representing the order in which they were placed from Cowes Castle, No. 1 being the nearest. They were moored in a double line. No time allowed for tonnage:—

	Tons.	Owners.
Beatrice, schooner ..	161	Sir W. P. Carew.
Volante, cutter ..	48	Mr. J. L. Cragie.
Arrow, cutter ..	84	Mr. T. Chamberlayne.
Wyvern, schooner ..	205	The Duke of Marlborough.
Iona, schooner ..	75	Mr. A. Hill.
Constance, schooner ..	213	The Marquis of Conyngham.
Titanic, schooner ..	100	Mr. E. Stephenson.
Gipsy Queen, schooner ..	180	Sir H. B. Houghton.
Alarm, cutter ..	193	Mr. J. Weld.
Mona, cutter ..	82	Lord A. Paget.
America, schooner ..	170	Mr. J. B. Stephens, &c.
Brilliant, 3-mast schooner	392	Mr. G. H. Ackers.
Bacchante, cutter ..	80	Mr. B. H. Jones.
Freak, cutter ..	60	Mr. W. Curling.
Sella, cutter ..	65	Mr. R. Frankland.
Eclipse, cutter ..	50	Mr. H. S. Fearon.
Frisande, schooner ..	127	Major Martyn.
Aurora, cutter ..	4	Mr. T. Le Merchant.

The mist which hung over the fields and woods from sunrise was carried off about 9 o'clock by a very gentle breeze from the westward, which veered round a little to the south soon afterwards, and the morning became intensely warm. At 9.55 the preparatory gun was fired from the club-house battery, and the yachts were soon sheeted from deck to topmast with clouds of canvas, huge gaff topsails and balloon jibs being greatly in vogue, and the America evincing her disposition to take advantage of her new jib by hoisting it with all alacrity. The whole flotilla not in the race were already in motion, many of them stretching down towards Osborne and Hyde to get a good start of the clippers. Of the list above given the *Titania* and the *Stella* did not start, and the *Fernande* did not take her station (the latter was twice winner in 1850, and once this year; the *Stella* won once last year). Thus only 15 started, of which seven were schooners, including the *Brilliant* (three-masted schooner), and eight were cutters. At 10 o'clock the signal gun for sailing was fired, and before the smoke had well cleared away the whole of the beautiful fleet was under weigh, moving steadily to the east with the tide and a gentle breeze. The start was effected splendidly, the yachts breaking away like a field of racehorses; the only laggard was the *America*, which did not move for a second or so after the others. Steamers, shore-boats, and yachts of all sizes, buzzed along on each side of the course, and spread away for miles over the rippling sea—a sight such as the Adriatic never beheld in all the pride of Venice; such, beaten though we are, as no other country in the world could exhibit, while it is confessed that anything like it was never seen even here in the annals of yachting. Soon after they started a steamer went off from the roads with the members of the sailing committee, Sir B. Graham, Bart., Commodore, Royal Yacht Squadron, and the following gentlemen:—Lord Exmouth, Captain Lyon, Mr. A. Fontaine, Captain Ponsonby, Captain Corry, Messrs. Harvey, Leslie, Greg, and Reynolds. The American Minister, Mr. Abbott Lawrence, and his son, Colonel Lawrence, *attaché* to the American Legation, arrived too late for the sailing of the *America*, but were accommodated on board the steamer, and went round the island in her, and several steamers, chartered by private gentlemen or for excursion trips, also accompanied the match.

The *Gipsy Queen*, with all her canvas set and in the strength of the tide, took the lead after starting, with the *Beatrice* next, and then, with little difference in order, the *Volante*, *Constance*, *Arrow*, and a flock of others. The *America* went easily for some time under mainsail (with a small gaff-top-sail of a triangular shape, braced up to the truck of the short and slender stick which serves as her maintopmast), foresail, fore-staysail, and jib; while her opponents had every cloth set that the club regulations allow. She soon began to creep upon them, passing some of the cutters to windward. In a quarter of an hour she had left them all behind, except the *Constance*, *Beatrice*, and *Gipsy Queen*, which were well together, and went along smartly with the light breeze. Once or twice the wind freshened a little, and at once the American gathered way, and passed ahead of the *Constance* and *Beatrice*. Another puff came and she made a dart to pass the *Gipsy Queen*, but the wind left her sails, and the little *Volante* came skimming past her with a studendous jib, swallowing up all the wind that was blowing. As the glorious pageant passed under Osborne-house the sight was surpassingly fine, the whole expanse of sea from shore to shore being filled as it were with a countless fleet, while the dark hull of the

Vengeance, 84, in the distance at Spithead, towered in fine relief above the tiny little craft that danced around her—the green hills of Hampshire, the white batteries of Portsmouth, and the picturesque coast of Wight, forming a fine framework for the picture. As the *Volante* passed the *America* great was the delight of the patriotic, but the nautical cognoscenti shook their heads, and said the triumph would be shortlived; the breeze was freshening, and then the sprightly cutter must give way, though she was leading the whole squadron at the time. At 10.30 the *Gipsy Queen* caught a draught of wind and ran past the *Volante*, the *Constance*, *America*, *Arrow*, and *Alarm* being nearly in a line. At 10.45 the breeze freshened again for a short time, and the *America* passed the *Arrow*, *Constance*, and *Alarm*, but could not shake off the *Volante* nor come up to the *Gipsy Queen*, and exclamations were heard of "Well, Brother Jonathan is not going to have it all his own way," &c. Passing Hyde the excitement on shore was very great, and the great ichthyosaurus-like pier was much crowded; but the *America* was forging ahead, and lessening the number of her rivals every moment. The *Sandheads* were rounded by the *Volante*, *Gipsy Queen*, and *America* without any perceptible change in point of time at 11 o'clock, the last being apparently to leeward. Again, the wind freshened, and the fast yachts came rushing up before it, the run from the *Sandheads* being most exciting, and well contested. Here one of the West India mail steamers was observed paddling her best to come in for some of the fun, and a slight roll of the sea inwards began to impart a livelier motion to the yachts, and to render amateurs, whether male or female, ghastly-looking and uncomfortable. The yachts were timed off Noman's Land buoy, and the character of the race at this moment may be guessed from the result,—

	H.	M.	S.
<i>Volante</i>	11	7	0
<i>Freak</i>	11	8	20
<i>Aurora</i>	11	8	30
<i>Gipsy Queen</i>	11	8	45
<i>America</i>	11	9	0
<i>Beatrice</i>	11	9	15
<i>Alarm</i>	11	9	20
<i>Arrow</i>	11	10	0
<i>Bacchante</i>	11	10	15

The other six were staggering about in the rear, and the *Wyvern* soon afterwards hauled her wind, and went back towards Cowes. At this point the wind blew somewhat more steadily, and the *America* began to show a touch of her quality. Whenever the breeze took the line of her hull, all her sails set as flat as a drumhead, and, without any creaking or staggering, she "walked along" past cutter and schooner, and, when off Brading had left every vessel in the squadron behind her—a mere ruck—with the exception of the *Volante*, which she overtook at 11.30, when she very quietly hauled down her jib, as much as to say she would give her rival every odds, and laid herself out for the race round the back of the island. The weather showed symptoms of improvement, so far as yachting was concerned;

a few seahorses waved their crests over the water, the high lands on shore put on their fleecy "nightcap" of cloud, and the horizon looked delightfully threatening; and now "the Yankee" flew like the wind, leaping over, not against, the water, and increasing her distance from the Gipsy Queen, Velante, and Alarm every instant. The way her sails were set evinced a superiority in the cutting which our makers would barely allow; but, certain it is, that while the jibe and mainsails of her antagonists were "bellied out," her canvass was as flat as a sheet of paper. No foam, but rather a water-jet, rose from her bows; and the greatest point of resistance—for resistance there must be somewhere—seemed about the beam, or just forward of her mainmast, for these seas flashed off from her sides at that point every time she met them. While the cutters were thrashing through the water, sending the spray over their bows, and the schooners were wet up to the foot of the foremast, the America was as dry as a bone. She had 21 persons on her deck, consisting of the owners, the crew, cook, and steward, a Cowes pilot named Underwood, and some seamen whom had been lent her by the Surprise, a London-built schooner yacht, now at Cowes Roads. They nearly all sat aft, and when the vessel did not require any handling crouched down on the deck by the weather bulwarks. The Gipsy Queen, when a little part Brading, seemed to have carried away her foresail sheets, but even had it not been so, she had lost all chance of success. The America, as the wind increased, and it was now a six knot breeze, at least, hauled down her wee gafftopsail, and went away under mainsail, foresail, and forestaysail, so that it required the utmost the steamer could do to keep alongside of her. This was her quickest bit of sailing, for on rounding the east point of the island it was necessary to beat to the westward, in order to get along the back of the Wight. At 11.37 the Arrow, Bacchante, Constance, and Gipsy Queen stood away to the north, to round the Nab, imagining, most probably, that it was requisite to do so, as the usual course certainly is to go outside the lightship, though the cards did not specify it on this occasion. The America and most of the other yachts kept their course round the Foreland and by Bembridge. She ran past the white and black buoys at a tremendous rate, and at 11.47 tacked to the west, and stood in towards the Culver cliffs, the nearest yacht being at least two miles to leeward or astern of her. She was not very quick in stays on this occasion, and it would seem she was not very regular in the manoeuvre, sometimes taking a minute, sometimes 30 seconds,

to perform it. At 11.53 she stood out again to the south-east, and, having taken a stretch of a mile or so, went about and ran in towards Sandown. The breeze died off at this point, and to keep the cutters and light craft off the America hoisted her gaff topsail and jib once more. Under Shanklin Chine the set of the tide ran heavily against her, but still there was nothing to fear, for her rivals were miles away, some almost hull down! While running under Dunnose at 12.53 her jib-boom broke short off. It may be remembered she procured the spar from Ratey, of Cowes, but no blame attaches to him, for not only did he recommend Messrs. Stephens to take a yellow spar instead of the white one they selected, but the boom was broken by mismanagement on the part of the men when straining on it with the windlass, and did not snap from the action of the sail. This accident threw her up in the wind, and gave the advantage of about a quarter of an hour to her opponents, while she was gathering in the wreck. But it was of little use to them. Looking away to the east, they were visible at great distances, standing in shore or running in and out most helplessly astern, the Aurora, Freak, and Volante, in spite of light winds and small tonnage, being two or three miles behind. The wind fell off very much for more than an hour, and it was but weary work stretching along the coast against a baffling tide, every moment making the loss of her jib of greater consequence to the America. Soon after 3 o'clock the Arrow managed to run on the rocks to the east of Mill Bay; and the sailing-committee's steamer the Queen, Her Majesty, an excursion boat, and the Alarm yacht at once made in to her assistance. They ran down to the ledge of rocks on which she was fixed, between Ventnor and Bonchurch, and "Her Majesty," falling on her with a hawser, steamed away as hard as she could, and, after some 20 or 30 minutes, towed off the poor little Arrow, which won but the other day at the Ryde Regatta, in such a condition that "she never more was fit for sea." She put about and went off towards the

Nab, with the intention of returning to Cowes; and the Alarm, which might have had a chance with Brother Jonathan in a heavy seaway, kept her company in the same direction, having generously run down to aid the Arrow. The America at this time was some miles ahead, and, as the breeze freshened from W.S.W. $\frac{1}{2}$ W., slipped along on her way, making tacks with great velocity, and stood well up to windward. Her superiority was so decided that several of the yachts wore, and went back again to Cowes in despair; and, for about another half-hour, the New York boat increased her distance every second, the Aurora, Freak, and Volante, keeping in a little squadron together—tack for tack—and running along close under the cliffs. This was rather unfortunate in one respect, for, in going about, the Freak fouled the Volante and carried away her jibboom; and the boatmen's pet became thereby utterly disabled, and lost the small glimpse of fortune which the light winds might have given her. Meanwhile minute after minute "the Yankee" was gaining ground, and at 3.30 was flying past St. Lawrence towards Old Castle, while the Bacchante and Eclipse, which had been working along honestly and steadily, were about $2\frac{1}{2}$ miles to leeward behind her. Further away still were visible five or six yachts, some hull down, some dipped further still, digging into the tideway as hard as they could, and ^{of ten} of the wind as well as their sails might stand. The America had by this time got the wind ^{the} in her quarter, having gone round Rocken-end, with thus having a tolerably fair course from the South ^{the} N.W. up to the Needles, the wind being light and the ^{min} somewhat broken. The persons on board the steamers were greatly astonished at seeing ahead of the America, after she had rounded Rocken-end, a fine cutter with jib and foresail together,—“two single gentlemen rolled into one,” bowling away with all speed, as if racing away for her life, and it was some time before they could be persuaded she was not the Aurora; but she was in reality the Wildfire, 42 tons, Mr. F. Thynne, of the Royal Cork Club, which was taking a little share in the match to herself, and had passed the End at 3.40. The America, however, bore straight down for the cutter, which was thoroughly well sailed, and passed her, after a stern chase of more than an hour, though the Wildfire, when first sighted, must have been $2\frac{1}{2}$ miles ahead of the schooner. At 5.40 the Aurora, the nearest yacht, was fully $7\frac{1}{2}$ miles astern, the Freak being about a mile more distant, and the rest being “nowhere.” The America was at this time close

to the Needles, upon which she was running with a light breeze all in her favour. Two of the excursion steamers ran into Alum Bay and anchored there to see the race round the Needles. While waiting there in intense anxiety for the first vessel that should ahoot round the immense pillars of chalk and limestone which bear the name, the passengers were delighted to behold the Victoria and Albert, with the Royal standard at the main, and the Lord Admiral's flag at the fore, steaming round from N.W., followed by the Fairy, and the little dockyard tender. Her Majesty, the Prince, and the Royal family, were visible by the aid of a glass from the deck of the steamers. The Royal yacht went past the Needles, accompanied by the Fairy, at 5.35, but quickly returned, and at 5.45 lay to off Alum Bay. The Fairy was signalled to proceed round the Needles, to bring tidings of the race, and at once started, Ariel-like, on her errand. Soon after the Royal yacht anchored a boat put off from her, in the stern sheets of which were Prince Albert and the Prince of Wales, who wore his white sailor's dress and tarpaulin hat. They landed, attended by two gentlemen, on the beach under the cliff at Alum Bay with the aid of the boatmen, and it was some time before the saunterers from the steamboats, who were climbing up towards the heights, were aware of the presence of such distinguished visitors. They proceeded a short way up the narrow winding path which leads to the heights, but a wet drizzle drifted before the wind, and rendered the walk unpromising, and the Royal party soon returned to the beach, the young Prince dancing down the shelving road with boyish vivacity. After a stay of eight or 10 minutes, the Royal party returned to the yacht. The Fairy, which had returned to signal, again stood out past the Needles, but all doubt and speculation, if any there could have been, was soon removed by the appearance of the America hauling her wind round the cliff at 5.50. The breeze fell dead under the shore, and the America lowered out her foresail and forestaysail so as to run before it. All the steamers weighed and accompanied her, giving three cheers as she passed, a compliment which owners and crew acknowledged with uncovered heads and waving hats. At 6h. 4m. the Wildfire rounded the Needles and bore away after the schooner, which by this time had got almost in a line with the Victoria and Albert. Though it is not usual to recognize the presence of Her Majesty on such occasions as a racing match, no more, indeed, than a jockey would pull up his horse to salute the Queen when in the middle of his stride, the America instantly lowered her ensign—blue with white stars,—the Commodore took off his hat, and all his crew, following his order and example, remained with uncovered heads for some minutes till they had passed the yacht—a mark of respect to the Queen not the less becoming because it was bestowed by republicans. The steamers, as she passed on, renewed their cheering, and the private battery of some excellent gentlemen at the "Crow's nest" opened fire with a Royal salute as the Victoria and Albert slowly steamed alongside the America. On turning towards the Needles, at 6.30, not a sail was in sight, but the breeze was so very light that all sailing might be said to have finished, and it was evident the America had won the cup, unless some light cutter ran up with a breeze in the dusk and slipped past her. The steamers, including the Tourist, which astonished the natives by steaming through the still water at the rate of some 15 or 16 miles an hour returned towards Cowes, and the Royal yacht, having run close by the America

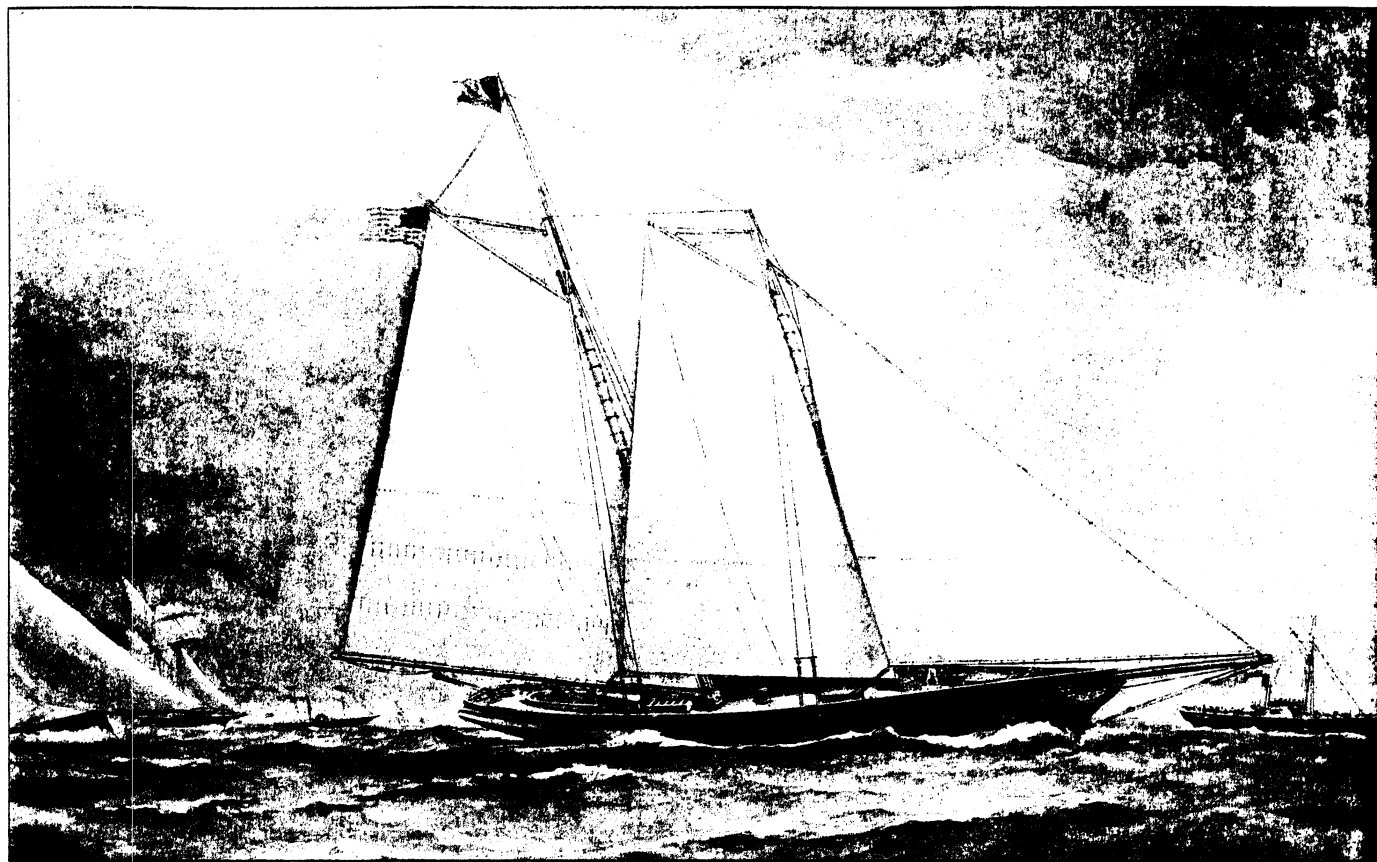
under half-steam for a short distance, went on towards Osborne. Off Cowes were innumerable yachts, and on every side was heard the hail,—“Is the America first?”—The answer “Yes.” “What's second?”—The reply, “Nothing.” As there was no wind; the time consumed in getting up from Hurst Castle to the winning flag was very considerable, the America's arrival first not having been announced by gunfire till 8.37. The Aurora, which slipped up very rapidly after rounding the Needles, in consequence of her light tonnage and a breath of wind, was signalled at 8.45; the Bacchante at 9.30; the Eclipse at 9.45; the Brilliant at 1.20 a.m. August 25th. The rest were not timed. Thus the America made good all her professions. It is with great pleasure I have to state that a protest which had been entered against her receiving the cup, on the ground that she had not followed the course marked out, was withdrawn, and that the Messrs. Stephens were presented by the Royal Yacht Squadron with the well-won cup. On the evening after the race there was a very brilliant and effective display of fireworks by land and water along the club-house esplanade, at which 6,000 or 7,000 persons were present. A reunion took place at the clubhouse, and the occasion was taken of Mr. Abbott Lawrence's presence compliment him on the success of his countrymen. His Excellency acknowledged the kindness in suitable terms, and said that, though he could not but be proud of the triumph of his fellow-citizens, he still felt it was but the children giving a lesson to the father. If the America was purchased here, they would nevertheless try to build something better in New York, so as to beat even her.

The last remark of his Excellency alluded to a rumour that an offer had been made to buy the America, but that the sum was not considered sufficient. We have thus been undeniably beaten, but we have been beaten with a good grace, and our conquerors are the first to admit it. They speak in the highest terms of the condescension and kindness of the aristocracy they had been taught to believe arrogant and unbending, and acknowledge in the warmest way the affability and courtesy of the gentry and of the various clubs.

This evening the America sailed from Cowes to Osborne, in consequence of an intimation that the Queen wished to inspect her. The Victoria and Albert also dropped down to Osborne. At a quarter to 6 the Queen embarked in the state barge, accompanied by his Royal Highness Prince Albert and suite, and on nearing the America the national colours of that vessel were dipped, out of respect to Her Majesty, and raised again when Her Majesty had proceeded on board. Her Majesty made a close inspection of the America, attended by Commodore Stephens, Colonel Hamilton, and the officers of the yacht. The Queen remained on board half an hour, and expressed great admiration of the general arrangements and character of this famous schooner. On Her Majesty leaving the American colours were again dipped, and Her Majesty proceeded in the barge to Osborne, where she arrived at half-past 6 o'clock.

Exhibit K

THE LOW
BLACK SCHOONER:



YACHT
America

1851 — 1945



John Rousmaniere

Exhibit L

Yacht America's Sails Found.

BOSTON, Nov. 1.—In a marine junk and old sail shop on Atlantic Avenue, this city, have been found two old sails which are of great interest. These sails undoubtedly belonged to the yacht America, the oldest of them being probably in use when she sailed her famous race in English waters and brought the cup to this country. This is a flying jib, and is marked on the clew, "Yacht America, 1851." It is what used to be called a hemp sail, although the material of which it is made is not really hemp, but linen. The other sail, though of later date, is made of Woodberry No. 7 cotton duck, and is marked on the clew, "America, maintopmast staysail, New-York Navy Yard, 1862." It is the Government stamp and is very significant, as the yacht was at that time in the possession of the Government, and was stationed at the navy yard in New-York. Both of these sails are in good condition, considering their age.

Darby Ready to Jump Any Man.

"Joe" Darby, the English jumper, writes to The

Published: November 2, 1893

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Exhibit M

State of New York

Court of Appeals

No. 25
Golden Gate Yacht Club,
Appellant,
v.
Societe Nautique De Geneve,
Respondent,
Club Nautico Espanol De Vela,
Intervenor-Respondent.

OPINION

This opinion is uncorrected and subject to revision
before publication in the New York Reports.

Maureen E. Mahoney, for appellant.
Barry R. Ostrager, for respondent.
David W. Rivkin, for intervenor-respondent.
New York Yacht Club; The San Diego Yacht Club Sailing
Foundation et al.; William I. Koch; Team French Spirit et al.;
Deutscher Challenger Yacht Club et al.; Reale Yacht Club
Canottieri; Savoia et al.; City of Valencia, Spain, amici curiae.

CIPARICK, J.:

This appeal involves the preeminent international sailing regatta and match race, the America's Cup. We had occasion once before to examine the charitable trust that governs the competition. In Mercury Bay Boating Club v San Diego Yacht Club (76 NY2d 256 [1990]), we strictly construed the provisions

of the trust instrument, the Deed of Gift, to allow multihulled vessels to compete in the America's Cup race. Today, we are called upon to reexamine the Deed of Gift to determine the eligibility criteria for a Challenger of Record -- specifically whether the phrase "having for its annual regatta" requires a yacht club to hold an annual regatta on the sea prior to issuing its challenge (Deed of Gift, October 24, 1887, ¶ 4). We conclude that it does.

The story of the America's Cup begins on August 22, 1851, after the schooner yacht, *America*, entered a race against British sailing vessels around the Isle of Wight, winning a large silver cup. In honor of the winning boat, the trophy was christened the "America's Cup," which became the corpus of a charitable trust created under the laws of New York and donated pursuant to a Deed of Gift to the New York Yacht Club in 1857. The Deed of Gift establishes the rules governing the America's Cup and provides that the holder of the Cup becomes its sole trustee and is succeeded only by a successful challenger in a race at sea. The original Deed of Gift required only that the challenger be an "organized" yacht club.

During the first 30 years after its inception, problems arose with the administration of the competition. As a result, the America's Cup was twice returned to George L. Schuyler, the sole-surviving donor, after two disappointing America's Cup races were sailed by Canadian Great Lake yacht clubs under the command

of Captain Alexander Cuthbert. Neither of the challenging vessels could withstand the rigors of open sea competition. The *Countess of Dufferin*, the first challenging vessel, was described as having "fresh water written all over her. . . [h]er hull lacked finish, being as rough as a nutmeg grater. . . and had little of the shipshape appearance expected of a cup challenger."¹ The *Atalanta*, the second challenging vessel, was also denounced by critics as being "a new yacht, hastily built, totally untried, and miserably equipped. . ."² To deal with this "unseaworthiness" issue, Schuyler amended the Deed of Gift with the intent of precluding Great Lakes yacht clubs from competing and reconveyed the America's Cup to the New York Yacht Club to hold in trust. In addition to requiring that a challenger be an "organized" yacht club, the amended Deed of Gift, dated October 24, 1887, added new eligibility requirements that a challenger must meet, including that it be "incorporated, patented or licensed by the Legislature, admiralty or other executive department, having for its annual regatta an ocean water course. . ." (Deed of Gift, October 24, 1887, ¶ 4). The Deed further provides that the Cup "shall be preserved as a perpetual Challenge Cup for friendly competition between foreign

¹ Winfield M. Thompson and Thomas W. Lawson, *The Lawson History of the America's Cup: Record of Fifty Years*, at 78 [Ashford Press Publishing, Southampton 1986] (internal quotations omitted).

² Id. at 88.

Accordingly, the order of the Appellate Division should be reversed, with costs, and the orders of Supreme Court reinstated.

* * * * *

Order reversed, with costs, and orders of Supreme Court, New York County, reinstated. Opinion by Judge Ciparick. Judges Graffeo, Read, Smith, Pigott and Jones concur. Chief Judge Lippman took no part.

Decided April 2, 2009

Exhibit N

unoccupied days.

William Krebs.
J. Fred. Tams.
Robert Center.
of the America's Cup Committee
New York Yacht Club.
Richard S. Bell.
Representative of the Bay of
Quinte Yacht Club.

REPORT OF REGATTA COMMITTEE.

Your Committee further reports that the details of supposed important international race having been agreed upon between the Bay of Quinte Yacht Club and the Committee representing your Club, this Committee made arrangements proportionate to the anticipated great event. The first race of the series was fixed for November 8th Election Day. At the hour named for the race the America's Cup Committee notified this Committee that it unanimously named the Sloop Yacht Mischief to represent your Club in the races arranged to be sailed on the 8th, 10th and 12th of November 1881. Your Committee proceeded to the starting point at the time agreed upon. Unfortunately at 11 A.M. there was a dead calm and a thick fog. Both yachts remained at the starting point until 12 M. at which time it was decided that the race could not be made in eight hours as provided by your Club Rules, so it was concluded that the race should be sailed over on the following day and successive unoccupied days.

The First of the Races took place on the 9th of November and resulted in the Atlanta being badly beaten. This race was sailed over the usual Club Course. The preparatory signal for starting was given by your Committee at 11 Hrs. 01 Minutes A.M. and the starting signal 11 hrs. 11 minutes A.M. The wind was then West South West and the tide just on the cast of the flood. The Mischief crossed the line at 11, 14, 50 and the Atlanta at 11, 15, 51. After getting through the Narrows and in to the Lower Bay

the Mischief began to drop the Atlanta very fast. The mischief rounded in magnificent style the Buoy No.10 at 12,33,12 and the Atlanta passed the same at 12,45,27. The wind was now blowing a full six knot breeze freshening all the time. The Mischief at this point had gained beside her time allowance 8 minutes and 29 second. The Atlanta was then showing the effect of the wind so badly that your Committee deemed it prudent to order the Tug to stay as near her as possible more especially so as our gallant member Mr. Henry Steers was on board of her helping the Canadian to beat your Champion all he could. The Mischief turned the Light Ship which Captain Cosgrove had gaily decorated with flags in honor of the event, at 1,25,25 and the Atlanta at 1,38,14. The wind outside was South West. It freshened on the run in to the point of the Hook. She was ahead from the Hook to Buoy No.5 1/2 which was passed by the Mischief at 2,20,00 and by the Atlanta at 2,42,00. The wind was now ahead. The Mischief rounded Buoy No.10 at 2,47,45. The Atlanta was not timed as she was too far astern. After rounding the buoy the Mischief started sheet and reached the starting point at 31,31,59, winning the Race by 28 minutes 30 1/4 seconds Corrected time. The following is the official time taken by your Committee.

Yacht	:Cubic ft.:	Allow:	Start	: Buoy 10:
Mischief	:3931/90	: Allow:	11,14,50:	11,33,12
	:	:in Sec:	:	:
Atlanta	:3567.60	: 2.45	:11,15,51:	12,45,27
Lightship:	Buoy 10:	Home	:Elapsed:	Corrected:
	1,25,25	:2,47,45:	3,31,59:	4,17,09
	1,38,14	:-- -- --:	4,04,15 1/4:	4,48,24 1/4
				4,45,39 1/4:

The Mischief beat the Atlanta by actual time 31^m 15 1/4^s and corrected time 28^m 30 1/4^s.

Your Committee further reports that the second and final race of the series for the Cup took place on the 10th day of November, The Race was sixteen nautical miles. The competing Yachts to Steer out East by South by Compass and to pass between Buoy No.5 off

the point of the Hook and the Tug or Stake Boat going and returning. Mr. F. C. Lawrence of the Vixen courageously consented to represent your Club aboard of the Atlanta. The wind was North West, blowing a good sailing breeze. The tide was strong ebb. The start was made by the Mischief at 11,58,17 and the Atlanta at 11,58,47. At 1,33,00, your Committees tug having gone 16 nautical miles, stopped and anchored, as turning Buoy which had been admirably prepared ~~by~~ for the occasion by the Steward of the Club, Mr. Olsen. The Mischief turned the buoy at 1,40,14 and the Atlanta 1,42,29 1/2. The wind meanwhile had freshened considerably. At this point the Mischief had beaten her competitor 1 minute and 50 seconds. The Mischief in the run back not only outpointed her, but outfooted her competitor, the Atlanta being soon left hopelessly astern.

The Canadian was so badly beaten that her Captain abandoned his purpose of crossing the Starting Line and announced to your representative Mr. Lawrence, his intention of "going ~~up~~ right up through the Narrows" It was only at the earnest remonstrance of your representative that he consented to report at the Judges boat. The Mischief crossed the line at 4,53,10 and the Atlanta at 5,39,19. Our Champion won this race and the series in magnificent style by 38 minutes and 54 seconds. The following is the result.

Yacht	: Start	: Finish	: Time of Race:
Mischief	: 11,58,17	: 4,53,10	: 4,54,53 :
Atlanta	: 11,58,47	: 5,35,19	: 5,36,32 :
<hr/>			
Corrected time: The Mischief beat the Atlanta			
	4,54,53	: on actual time	18" 21"
	5,33,47	: corrected time	21" 06"

Your Committee forbears to make any further comments upon these so called international races. It does deplore, however, that so much time and money should have been expended to enable a boat builder to try his sails preparatory to racing in earnest for the Americas Cup and heretofore supposed International Trophy.

Before closing its report your Committee in view of what seems to be a general opinion amongst Yacht owners, beg leave to suggest the advisability of so altering the regular course for the Annual Regatta that the Start may be from a point at or below Fort Wadsworth, instead as now, from opposite Stapleton. Such a course would tend to avoid the baffling winds and changing currents frequently met with in passing through the Narrows.

IF it be objected that such a change would shorten the Course there, the Homeward course could be so altered as to include passing to the Southward of the Scotland Light Ship.

Gilbert L. Haight.

Chester Griswold.

John H. Bird.

REGATTA COMMITTEE.

Exhibit O

“The America’s Cup”
New York *Herald*
December 21, 1881

1
Donald Dech 21

THE AMERICA'S CUP.

The committee appointed at the special meeting of the New York Yacht Club, in the matter of returning the America's Cup to Mr. George L. Schuyler, the surviving donor, had not officially communicated with that gentleman yesterday, but it is understood by members of the club that Mr. Schuyler has informally expressed his willingness to receive the cup back and present it to the club again, with the conditions so amended as to prevent future misconstruction and to more clearly define what the intentions of the original donors were. The objections and weak points of the former conditions under which the cup was presented to the club are the subject of daily comment with the more prominent members, and some of these objections may be briefly stated, as follows:—

The cup was presented to the club at a time when yachting was in its infancy, and the most enthusiastic had no idea that the pastime would become as popular the world over as it is at present.

The original idea was that yachts contending for the cup should cross the ocean to do so.

It was not dreamed that a vessel constructed in inland waters by our neighbors, and on water used by us in common, a vessel virtually of the type of American yachts, would be towed through a canal to contend for the trophy.

The idea, on the contrary was, that by making the cup a challenge cup, it would improve the models of sea-going yachts.

It was not intended that untried boats built by

It was not intended that untried boats, built by neighbors, should visit us as an experiment to test them.

There is nothing in the former conditions to prevent a foreign yachtsman buying an American boat, and subsequently sending her back to battle for the cup under a foreign flag, a matter though not probable yet possible.

Nothing is set forth in the old conditions to prevent unnecessary repetition of races.

Such are a few of the objections that have been raised against the original conditions, but there are others probably as weighty and demanding equal consideration. One thing is certain that the new conditions will expressly stipulate that all races hereafter sailed for the cup shall be boat against boat, so that the cry of "Put the whole fleet against each and every comer" will be settled forever. The action of the committee appointed by the club should be prompt, as the reception of a challenge pending the settlement of the matter would be excessively annoying.

Exhibit P

**NOTES and DRAFT of the 1882 DEED of GIFT
December 1881**

Transliterated from the manuscript by R. S. Tsuchiya, January 20, 2010
From the archives of the New York Yacht Club.

The following is the verbatim text. Handwritten comments on the manuscript are in red font.

Notes made by J. F. Tams at the request of Geo. L. Schuyler for his information prior to calling a meeting for the consideration of changes in the Deed of Trust.

In the twenty five years that have elapsed since the America won the cup ~~since~~ subsequently known as the America Cup and it was presented to this club immense strides have taken place in yachting all over the world and especially in Great Britain and the United States so that the conditions existing at the time the cup was so presented have very materially changed and so here it was probably contemplated at that time that contestants should cross the ocean as the tried and proved representative or champion of the challenging party, we see today a vessel constructed by one of our own neighbors on inland waters navigated by both of us in common, virtually within speaking distance of each other, being dragged through the mud of the canal on her way here to contend for this much coveted emblem. In addition to which she comes, not as the proved acknowledged champion of the section of the globe from which she hails, and of the model representing the successful type of that part of the world, but crude in finish and appointment and in an unfinished condition, and of a model and type essentially the same as the vessels she expected to meet, so reducing the contest initiated for the purpose of fostering and improving the models of seagoing vessels to a mere race between boats of neighboring clubs. And further, instead of being the champion selected after having proved herself worthy of that name by her superiority over all competitors, she comes fresh from the stocks, virtually untried in other words an experiment at the expense of the N.Y.Y. Club – neither does she come representing a country nor a section, but from a little local club consisting principally of open boats and with no stated regatta course for large vessels. And having been disastrously defeated in the ~~contest~~ match for the cup she remains here with the avowed intention of again competing for it in the following season. This brief summary will call attention to some of the disadvantages resulting from the changed conditions before referred to particularly as brought into prominence by the last two contests for the possession of the cup.

In addition to these, but inferred in the deed of gift, there is nothing in it to prevent a foreigner, who is also a member of the club in the country holding the cup, competing for it with a boat of the same nationality or for that matter purchasing a vessel of the nationality of the country holding the cup and then hoisting them with their own petard.

There is also nothing to prevent notices of an intention to compete being received by the holder of the cup while a contest is already pending. As it now stands a vessel may give notice of his intention to compete on a certain day, may appear and sail over the course and, if no competition appears, may claim the cup.

So far as any provision to the contrary goes a holder of the cup may now make such ~~arbitrary time allowance~~ or arbitrary systems of measurement and time allowance as to virtually sequesterate the cup. And instead of having one uniform basis of measurement for all contests for the possession of the cup, that basis will now vary according to the rules of the club which might win and it might also be won by a vessel belonging to a club whose regatta course, if they possessed one, was not practicable for large vessels.

The foregoing mentioned are some of the more important disadvantages attached to the possession of the Cup, under which a present holder labors—and we are not—in this sociable informal way tonight to talk the matter over and to see what is must to be done and what can be done, so that should the New York Yacht Club the present holder of the Cup hereafter desire to take any action in the same direction and with like object in view, the way may be paved and the burden made lighter.

To formulate the general feeling on the subject, the idea seems to be to come to some definite conclusion as to the disease, that is to diagnose the case, and as to the proper remedies to be used and our right to use them and then to take such action as the emergencies may call for such as consulting with the surviving donor as to his willingness to make additions to or definitions of the terms of the original deed of gift in order to accomplish said result in the event of the N.Y.Y. Club applying to him to that effect for that purpose provided, of course, that it can be legally done.

In order to bring the subject before us in a definite shape, free of the evils and suggestions as to remedies and the purpose for which are as follows:

First

To prevent challenges emanating from parties, clubs or countries not originally contemplated or intended by the donors.

For the purposes of this cup, “Organized Yacht Club” and “Foreign Country”, in the deed of gift are respectively defined to mean – regularly incorporated Clubs holding patents from the government or State under which they are incorporated and having a recognised Ocean-water Regatta Course in the Sea and/or an arm of the Sea and suitable for vessels of 300 tons.

The representative vessel must be or have been constructed in the country from which the challenge emanates ~~and the challenger shall deposit with the Club holding the Cup a sum equal to _____ dollars U.S. Gold coin at the time of giving notice of such intention to sail for the Cup – said sum to be retained by such Club in case the challenging club is defeated as a contribution towards the expenses. To be returned in the event of the challenging club being victorious – or in other words, to follow the Cup.~~

Second

To prevent the unnecessary repetition of contests with the same vessel

No vessel which has been defeated in a match for this cup shall have the right to ~~challenge~~ sail for it again until after an intervening contest.

Third

~~_____ To provide a uniform basis of measurement for all contests for the possession of the cup.~~

~~_____ For all contests for the possession of this cup held under the auspices of whatsoever club, the measurement for time allowances shall be actual cubical contents.~~

The cup is offered etc.,

Any organized Yacht Club, of any foreign country, incorporated, patented, or licensed by the Legislature, Admiralty or other Executive Department of such foreign country, ~~or State to which such Club belongs~~ and having a regular ocean-water course in the sea or in an arm of the sea or in both, practicable for vessels of three hundred tons, **propelled by sails only** for its Annual Regatta, shall always be entitled, through any one or more of its members represented by any yacht or other vessel properly enrolled in that Club, of not less than thirty nor more than three hundred tons, measured by the Custom-house rules of the country to which the vessel belongs, to claim the right of sailing a match for this cup.

The parties desiring to sail for the Cup may make any match with the Yacht Club in possession of the same that may be determined upon by mutual consent. But, in case

of disagreement as to terms, the match shall be sailed over the usual Course for the Annual Regatta of the Yacht Club in possession of the Cup, and subject to its Rules and Sailing Regulations, the challenging party being bound to give six months notice in writing, fixing the day they wish to start. Any notification or challenge must be accompanied with a regular custom house certificate, embracing the dimensions, custom-house measurement, rig and name of the vessel. And any match for this cup, under any circumstances, to take place within seven months from the date of the receipt of a challenge or notification.

No vessel which has been defeated in a match for this Cup shall have the right to sail for it again until after a contest for the Cup by another vessel has intervened

In the event of the dissolution of the Club in possession of the Cup, other than the New York Yacht Club, the Cup shall revert to the New York Yacht Club.

It is to be distinctly etc., etc.,

The representative vessel must be or have been *or have been* constructed in the country from which the challenge emanates.

B Any organized Yacht Club in any Country in Europe, having a regular oceanwater course, in the Sea, or, in an arm of the Sea, or, in both, practicable for vessels of three hundred tons, for its Annual Regatta, shall always be entitled. etc., etc.,

It is to be distinctly understood, that the Cup is to be the property of the Club, etc., etc., and that the condition of keeping it open to be sailed for by the Yacht Clubs of Europe and the United States upon the terms above laid down, shall forever attach to it, thus making it perpetually a Challenge Cup for friendly competition between the two countries *all nations*.

Exhibit Q

**DEED OF GIFT
OF THE
AMERICA'S CUP**

**AND RELATED MANUSCRIPTS
FROM THE ARCHIVES OF
THE NEW YORK YACHT CLUB**

REVISED EDITION (2008)

**EDITED AND ANNOTATED
BY RYOICHI STEVEN TSUCHIYA**

John Rusconi

**LETTER INCORPORATING
THE DEED OF GIFT OF THE AMERICA'S CUP
SECOND EDITION
(HOLOGRAPHIC)
JANUARY 31, 1882 (RE-DATED JANUARY 4, 1882)**

New York January 31 1882

To the Secretary of the New York Yacht Club

Dear Sir,

I have to acknowledge the receipt of your letters of December 17 1881 endorsing the resolutions of the New York Yacht Club of that date, and also the return of the "America [sic] Cup" to me as the survivor of the original donors.

I fully concur with the view expressed in the resolutions, that the deed of gift made so many years ago is, under present circumstances, inadequate to meet the intentions of the donors and too onerous upon the club in possession, which is required to defend it against all challengers.

As the New York Yacht Club by your communication and under the resolutions themselves, expresses a desire to be again placed in possession of the cup under new conditions, I have conferred with the committee appointed at the meeting and have proposed a new deed of gift of this cup as a perpetual challenge cup. It is hoped that as regards both challenging and challenged parties its terms will be considered just and satisfactory to organized yacht clubs of all countries.

~~The cup is again offered to the New York Yacht Club, subject to the following conditions—~~

There is one clause which may require explanation. Owing to the present and increasing size of ocean steamers it would be quite feasible for an American, English or French club to transport on their decks yachts of large tonnage. This might be availed of such a way that the match would not be a test of seagoing qualities as well as of speed, which would essentially detract from the interests of a national competition.

The America's Cup is again offered to the New York Yacht Club, subject to the following conditions:

Any organized Yacht Club of a foreign country, incorporated, patented or licensed by the Legislature, Admiralty or other Executive departments, having for its annual regatta an ocean water-course on the sea, or on an arm of the sea, (or

one which combines both), practicable for vessels of 300 tons, **shall always be entitled, through one or more of its members, to the right of sailing a match for this Cup,** with a yacht or other vessel propelled by sails only, and constructed in the country to which the challenging Club belongs, against any one yacht or vessel as aforesaid, constructed in the country of the Club holding the Cup.

The Yacht or vessel to be of not less than thirty or more than three hundred tons, measured by the Custom-house rule in use by the country of the challenging party.

The challenging party shall give six months' notice in writing, naming the day for the proposed race, which day shall not be later than seven months from the date of the notice.

The parties intending to sail for the Cup may by mutual consent, make any arrangement satisfactory to both as to the date, course, time allowance, number of trials, rules, and sailing regulations, and any and all other conditions of the match, in which case also the six months' notice may be waived.

In case the parties cannot mutually agree upon the terms of a match, then the challenging party shall have the right to contest for the Cup in one trial, **sailed over the usual course of the annual regatta of the Club holding the cup, subject to its rules and sailing regulations,** the challenged party not being required to name its representative until the time agreed upon for the start.

Accompanying the six months' notice there must be a custom-house certificate of the measurement, and a statement of the dimensions, rig, and name of the vessel.

No vessel which has been defeated in a match for this Cup can be again selected by any Club for its representative until after a contest for it by some other vessel has intervened, or until after the expiration of two years from the time such contest has taken place.

Vessels intending to compete for this cup must proceed under sail on their own bottoms to the port where the contest is to take place.

Should the Club holding the Cup be for any cause dissolved, the Cup shall be handed over to any Club of the same nationality it may select which comes under the foregoing rules.

It is to be distinctly understood, that the Cup is to be the property of the Club, and not of the owners of the vessel winning it in a match; and that the condition of keeping it open to be sailed for by organized Yacht Clubs of all foreign countries, upon the terms above laid down, shall forever attach to it, thus

making it perpetually a Challenge Cup for friendly competition between foreign countries.

George L. Schuyler

Notes: Second Edition of the Deed of Gift of the America's Cup:

The words in green font are the revisions to the original Deed which are in black font. The words of Schuyler's holographic letter presenting the draft of the second revision of the Deed to the N.Y.Y.C. and the words of the typed circular are identical. It is unknown if a formal holographic, typed, or printed second revision of the Deed existed.

Exhibit R

SI VAULT

 PRINT THIS

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September 17, 1962

All Eyes On The Challenger

Like 'Weatherly's' skipper, Bus Mosbacher (above), the world will be watching this week as Australia's 'Gretel' bids for the America's Cup

Carleton Mitchell

As the gun fires to send Weatherly and Gretel across the starting line on Saturday, it will be the 18th time in 92 years that a challenger has tried to carry home the trophy won by the schooner America under the eyes of Queen Victoria. None has succeeded—in 55 cup races spanning almost a century, the defenders have lost only five.

By present standards of sportsmanship, not all of the challengers have been given a fair chance. This is not the case with Gretel. Seldom if ever has an overseas invader in any field been helped so far along the road to victory by a nation anxious to make things equal. "It's hard to tell where the American part ends and the Australian begins," exclaimed an observer last week. From her epoxy-paint bottom, smoother than a gun barre, to the aluminum extrusion that forms the towering mast, Gretel is indebted to her host country. Winches, rigging wire, many fittings—even sails—have been made available, while her very lines stem from Vim and were tested in a model tank in the un-down-under city of Hoboken.

Contrast this generosity with the attitude toward Cambria, the first British vessel to make a foray, in 1870. She was required to sail a single race against a fleet of 23 crack yachts. For the next challenge, despite published protests that a "match should be won when made," it was conceded that the invading Livonia would be pitted against a single boat, but there was still a catch: the committee reserved the right to name her adversary on the morning of each race, depending on the weather. Four potential defenders were ready, all best in different strengths of wind. As recently as 1958 there was a stricter interpretation of the clause in the deed of gift stating the yacht must be "constructed in the country to which the challenging club belongs."

When I sailed aboard Sceptre in England four months before the last cup races, the crew expressed a wish for enough Zeta cloth—a lightweight, strong, nonporous synthetic fabric—to make a spinnaker. I promised to send them some if the cup committee expressed no objection. It did. The late Commodore W.A.W. Stewart, chairman of the committee, informed me that sending American fabric to a challenger might violate the country-of-origin clause. Now, under an obviously relaxed interpretation of the clause, Gretel Helmsman Jock Sturrock is able to say: "We have available a full complement of Hood and Ratsey sails to use—if we want to."

This is not intended to belittle the Australian achievement. But it is true that without a relaxation of the rules by the present cup committee there simply could not have been a challenger from down under. No one unfamiliar with the complexity of a modern 12-meter yacht realizes the technological background necessary to its production; while harnessing the wind for propulsion may be anachronistic, to do it competitively requires an extensive leavening of aerodynamic materials and techniques.

There are not likely to be any secrets on either side. The Aussies followed the early trial races closely—a boat carrying Archie Robertson and Jock Sturrock was closest to Columbia when she lost her mast, and picked up the crew member knocked overboard—and are familiar with every phase of American starting tactics and sail-handling methods. During the week after the selection of a defender the rival vessels stood side by side on the ways of Newport Shipyard as final modifications took place, all work open to mutual inspection.

Gretel, incidentally, effected a rather major change for so late in the season by moving the mast forward 19 inches. "She has always had a weather helm," concedes Designer Alan Payne. "It didn't seem so bad back in Melbourne, but it seems bad here." Jock Sturrock,

now that he has been named helmsman, is delighted. "Nothing I dislike more than fighting the wheel. I have a Payne-designed sloop of my own back in Australia, and she balances perfectly. Gretel will be better for the change." As the headstay has been shifted a matching distance, no recutting of sails is required. At the same time, the oversize mainsheet horse has been discarded and the American system of blocks and mainsheet lead adopted. Now little remains of the Australian attempt to break away from standard 12-meter practice except the linked coffee grinders for handling head-sails (SI, July 9).

Thus Gretel will meet Weatherly as closely equalized as it is possible for boats of widely different origins and national backgrounds to be. Yet, as the series of trials to choose a defender has proved, it is impossible to be certain of the relative abilities of yachts in match racing until they meet in actual competition—and even then superiority may hinge on the whim of the winds and vary from day to day.

The known advantages of Weatherly begin with the men on deck. Bus Mosbacher has proved himself the outstanding helmsman of this era, both in his grasp of tactics and his ability to make a boat move through the water, especially to windward. After four years of watching Bus on the starting line I am still amazed at his knack of bending almost any situation to his advantage. It seems to stem from an uncanny sense of timing—not just the minutes ticking away on the starter's chronometer but how the boats will come together after sailing different courses at different speeds. No matter what his opponent may do, Mosbacher is usually where he wants to be when the gun sounds.

Backing up Mosbacher in the cockpit are shipmates from Vim four years ago—Dick Matthews as navigator and Don Matthews as mainsheet man and tactical spotter. Forward is Vic Romagna, veteran of both Weatherly and Columbia. Adding Buddy Bombard and Doug Mercer, six of the 11 men aboard were blooded in the '58 campaign. The teamwork necessary to perform intricate yet split-second maneuvers can only be gained through competition, and the Weatherly team has had ample.

Weatherly achieved 15 victories against five defeats in the trials, but Gretel is an unknown quantity. Her yardstick has been the venerable Vim, whose present capabilities can only be judged by her failure to win a single race during this year's New York Yacht Club cruise, against five victories in seven starts in 1958. Sturrock and his crew will start their first big-boat match race on Saturday when they come up against Bus Mosbacher and Weatherly. This is something like trying to lasso a tiger the first time you see a tiger.

On the challenger's side is Sturrock's proved ability under pressure in other classes, a rigorous training program with much hard drill, a crew chosen after almost two years of tryouts and what might best be called the Aussie competitive flair—the determination, dedication and dash that have carried a small nation to the top in other sports.

The weather also may be on the Australian side. Unless Gretel is capable of the biggest surprise within memory, Weatherly must be considered the fastest yacht of her class ever built in light and moderate winds, say up to 15 knots. Changes in ballasting have vastly improved her stability, and beyond question she now qualifies as a good all-round performer, not likely to be outclassed in any conditions. But how far up the velocity scale her power extends is a matter of question in the minds of many experts. True, Weatherly went well during the final trials in winds of better than 20 knots, but somewhere in this area the challenger might begin to give an interesting account of herself.

I cannot forget watching from Gretel's cockpit her enormous superiority over Vim while going to windward in a rail-down breeze (SI, Sept. 3). While some observers who have watched from astern feel she, too, may be a trifle tender in a blow, I was impressed by her drive through the seas, her ability to point high and foot well and the smartness of her crew in tacking—as well as the angle between tacks, fully as good as Weatherly's.

While meteorological records do not indicate appreciably stronger average winds in mid-September than in midsummer, for a few days anything could happen. Not only is it the season of the equinox, but already the fresh chill gradient winds of autumn have tinted the trees of Newport. Come zephyrs between frontal systems, expect Weatherly in a walk. But come a few days of heavy winds and rough seas, and there just might develop drama sadly lacking for the spectator fleet in recent cup matches, as well as in the trials this summer.

Find this article at:

<http://sportsillustrated.cnn.com/vault/article/magazine/MAG1134985/index.htm>

Exhibit S

All Three of Gretel's Sails Made in America by Hood

Special to The New York Times.

NEWPORT, R. I., Sept. 18—
The three sails that drove Gretel to her stirring victory over Weatherly today were made by Ted Hood of Marblehead, Mass.

The mainsail Gretel used throughout the race was made by Hood in 1958 for Vim, the American defense candidate of that year that was chartered Down Under to serve as Gretel's trial horse. It has been recut several times, for Vim and again for Gretel.

On the opening windward and second reaching leg, Gretel flew a Hood genoa jib obtained shortly after her arrival in this country.

On the decisive downwind third leg, Gretel carried an all-white spinnaker ordered from Hood more recently.

Exhibit T

[[Contents](#)] [[Comment](#)] [[Home](#)] [[Up](#)] [[Previous](#)]



INTERPRETIVE RESOLUTIONS TO THE DEED OF GIFT FOR THE AMERICA'S CUP

THE WATERLINE LENGTH AND "OWN BOTTOM" AMENDMENT

ORDER WITH RESPECT TO ADMINISTRATION OF GIFT DATED DECEMBER 17, 1956

NEW YORK YACHT CLUB, having filed a verified petition dated September 21, 1956, praying that an order be made pursuant to Section 12 of the Personal Property Law or otherwise, directing that the gift by George L. Schuyler of the America's Cup which was won by the yacht AMERICA at Cowes, England on August 22, 1851, in trust under a Deed of Gift dated October 24, 1887, shall be administered as if the minimum load water-line length of the competing yachts or vessels of one mast and thereby required to be forty-four (44) feet and without regard to and free from the direction contained therein that yachts or vessels competing for the America's Cup shall sail on their own bottoms to the port where the contest is to take place, and that such other and further relief as to the Court may seem just and proper be granted to petitioner; and it appearing to the satisfaction of the Court from said petition and the papers annexed thereto that circumstances have so changed since the execution of said Deed of Gift, in a manner not known to the said donor and not anticipated by him, as to render impractical a literal compliance with the aforesaid terms of said Deed of Gift; and it further appearing that the grantor of said Deed of Gift has died and that the Attorney General of the State of New York is the only person interested in this proceeding; and said Attorney General having appeared and certified that he has no objections to the entry of an order as prayed for by petitioner,

NOW, upon motion of Carter, Ledyard and Milburn, attorneys for petitioner, it is

ORDERED that New York Yacht Club, as trustee of the America's Cup given under the Deed of Gift dated October 24, 1887 made by George L. Schuyler, hereby is directed to administer the said Gift as if said Deed of Gift included no provision requiring yachts or vessels competing for the America's Cup to sail, on their own bottoms, to the port where the contest is to take place, and as if the minimum load water-line length of the competing yachts or vessels of one mast was thereby required to be forty-four (44) feet.

Enter,
Hon. Edgar J. Nathan, Jr. J.S.C.
Justice

THE ARM OF THE SEA INTERPRETATION

JUDGEMENT OF THE SUPREME COURT OF THE STATE OF NEW YORK DATED SEPTEMBER 20, 1984

An application having been made by the petitioner The Royal Perth Yacht Club of Western Australia Incorporated for an order interpreting certain provisions of a Deed of Gift of the America's Cup dated October 24, 1887 between George L. Schuyler and The New York Yacht Club, as amended by order of the Court dated December 17, 1956 (index No. 12696/56);

NOW, upon reading and filing the order to show cause dated August 8, 1984 (Alfred M. Ascione, Jr., J.) with proof of due and timely service of the Attorney General of the State of New York, the petition of the Royal Perth Yacht Club of Western Australia incorporated, verified the 30th day of July 1984, and annexed exhibits, and the affidavit of Eugene M. Kinney, sworn to the 20th day of July, 1984 and exhibits thereof, all in support of the petition, and the notice of appearance and consent of Attorney General of the State of New York, acknowledged the 13th day of August, 1984, consenting to the petition;

AND, a memorandum decision and order dated September 4, 1984, having been rendered granting the petition;

NOW, upon the motion of DeForest & Duer, attorneys for the petitioner The Royal Perth Yacht Club of Western Australia Incorporated, it is

ORDERED and ADJUDGED, that the petition of The Royal Perth Yacht Club of Western Australia Incorporated is granted with the consent of the Attorney General of the State of New York, representative of the public interest in the Deed of Gift, to the extent of declaring that the Deed of Gift entitles the Chicago Yacht Club, a yacht club of a foreign (i.e. competing) country as contemplated in the Deed of Gift, to enroll and compete as a contestant for the "America's Cup."

THE SOUTHERN HEMISPHERE AMENDMENT

ORDER OF THE SUPREME COURT OF THE STATE OF NEW YORK DATED APRIL 5, 1985

An application having been made by petitioner The Royal Perth Yacht Club of Western Australia Incorporation for an order amending a certain provision of a Deed of Gift of the America's Cup dated October 24, 1887 between George I. Schuyler and The New York Yacht Club, as amended by the Court dated December 17, 1956 (Index No. 12696/56);

NOW, upon reading and filing the order to show cause dated February 27, 1985 (Stanley Parness, J.) with proof of due and timely service on the Attorney General of the State of New York and The New York Yacht Club, the petition of The Royal Perth Yacht Club of Western Australia Incorporated, verified the 27th day of November, 1984, and annexed exhibits, and the affidavit of Charles E. Kirsch, sworn to the 26th day of February, 1985, and annexed exhibits, all in support of the petition, and the notice of appearance and consent of the Attorney General of the State of New York, acknowledged the 7th day of March, 1985, consenting to the petition; and there being no opposition;

AND, a memorandum order dated March 11, 1985 having been rendered granting the petition on default;

NOW, upon the motion of DeForest & Duer, attorneys of petition The Royal Perth Yacht Club of Western Australia Incorporated, it is

ORDERED, that the petition of The Royal Perth Yacht Club of Western Australia Incorporated is granted; and it is further

ORDERED, that the Deed of Gift is amended, and the trust established pursuant to the Deed of Gift shall hereafter be administered, as if, following the phrase "No race shall be sailed in the days intervening between November 1st and May 1st", there were added the following language: "if the races are to be conducted in the Northern Hemisphere; and no race shall be sailed in the days intervening between May 1st and November 1st in the Southern Hemisphere."

Enter,
Hon. Elliot Wilk J.S.C.
Justice

THE INTERPRETIVE RESOLUTIONS ADOPTED BY THE TRUSTEES

Reprinted in full including Amendments

RESOLUTION ADOPTED BY THE BOARD OF TRUSTEES ON MARCH 27, 1958

(The "1958 Resolution")

WHEREAS, a question has been raised on behalf of certain individuals, citizens of a foreign country, interested in a possible challenge for the America's Cup, as to whether a challenge would be accepted by the New York Yacht Club if the challenger were designed in the United States but the hull built in the country of the challenging Club; and

WHEREAS, by the original Deed of Gift of the America's Cup dated July 8, 1857, it was expressly provided that the Cup should be "perpetually a Challenge Cup for friendly competition between foreign countries"; and

WHEREAS, by the second Deed of Gift dated January 4, 1882, it was provided that the yacht challenging for the Cup and the yacht defending must be "constructed" in the country to which the challenging and defending Clubs respectively belong; and the above recited provision that the Cup should be "perpetually a Challenge Cup for friendly competition between foreign countries" as again set forth; and

WHEREAS, by the third and present Deed of Gift dated October 24, 1887, it was again provided that the Cup should be a "perpetual Challenge Cup for friendly competition between foreign countries," and the second paragraph thereof contained the provision above referred to that the challenging and defending yachts shall be constructed in the countries they respectively represent;

NOW, THEREFORE, in view of the expressed intent of the donors of the America's Cup that it should be "perpetually a Challenge Cup for friendly competition between foreign countries," and the fact that in accordance with that intent and commencing with the first race for the Cup in 1870 down to the present time every challenger has been both designed and constructed in the country of the defending Club so that every challenger and every defender has been in all respects truly representative of the countries of the challenging and defending club and the Cup has become by tradition the symbol of the yachting supremacy of the country of the Club winning the challenge match:

RESOLVED that the word "constructed" wherever it appeared in the Deed of Gift of the America's Cup shall always be construed as "designed and built".

W. Mahlon Dickerson,
Secretary

RESOLUTION ADOPTED BY THE BOARD OF TRUSTEES ON DECEMBER 7, 1962

[Rescinded July 15, 1980]

~~WHEREAS, certain citizens or subjects of foreign countries, members of yacht clubs which qualify under the Deed of Gift of the America's Cup, and which yacht clubs are considering challenging for the America's Cup, have raised the question as to whether the obtaining of components (other than raw materials), fittings and sails, or the use of design facilities such as a towing tank; outside of the Board's Resolution of March 27, 1958, construing the word "constructed" in the Deed of Gift as "designed and built"; and~~

~~WHEREAS, by Resolution dated March 27, 1958, the Board construed the word "constructed" wherever it appears in the Deed of Gift of the America's Cup as meaning "designed and built"; it is~~

~~RESOLVED, that the word "designed" includes the use of a design facility such as a towing tank, and that the work "built" included components, fittings and sails; and~~

~~WHEREAS, the Board recognizes that components, fittings and sails and the availability of design facilities such as towing tanks may not be obtainable in the country of the challenging club; it is~~

~~RESOLVED, that recognizing that such design facilities may not be available and components, fittings and sails may not be obtainable in the country of the challenging club, will consider a request for permission to obtain certain of the aforesaid components, fitting and sails and to use the aforesaid design facilities in any country other than that of the defending club;~~

~~RESOLVED, that whenever, the Deed of Gift of the America's Cup is printed this Resolution with preamble adopted by the Board of Trustees on march 27, 1958, interpreting the word "constructed" to mean "designed and built," be printed with the Deed of Gift.~~

W. Mahlon Dickerson
Secretary

RESOLUTIONS ADOPTED BY THE BOARD OF TRUSTEES ON JULY 15, 1980

(The "1980 Resolutions")

AND AMENDED ON MARCH 9, 1982

(The "1982 Amendments")

WHEREAS by Resolution adopted March 27, 1958 (the "1958 Resolution") this Board interpreted the word "constructed" as used in the Deed of Gift of the America's Cup (the Deed of Gift") to mean "designed and built"; and

WHEREAS by Resolutions adopted December 7, 1962 (the "1962 Resolution") this Board set forth its interpretation of the words "designed and built" as used in the 1958 Resolution and set forth certain procedures relation to the application of such interpretation; and

WHEREAS because of the great increase in recent years in the exchange among the world's yachtsmen, yacht designers, yacht builders and sailmakers of technology, techniques, material and facilities for the design and construction of yachts, their rigs and their sails, the interpretations set forth in the 1962 Resolutions are no longer workable or meaningful;

WHEREAS the purposes of the Deed of Gift, particularly the provision thereof that the America's Cup "shall be preserved as a perpetual Challenge Cup for friendly competition between foreign countries", will be furthered by a requirement that the members of a candidate's crew shall be nationals of the country in which the club represented by the candidate is located; it is

RESOLVED that he 1962 Resolutions be, and the same herby are rescinded; and

RESOLVED that the 1958 Resolution be, and the same hereby is, ratified and confirmed; and

RESOLVED that for the purposes of the 1958 Resolution:

- a. A yacht shall be deemed to be "designed" in a country if the designers of the yacht's hull, rig and sails shall be nationals of that country; and

- b. A yacht shall be deemed to be "built" in a country if the hull of the yacht, including all framing and all planking, plating or other form of surfacing of the hull, shall be fabricated and assembled, and if the yacht's sails shall be manufactured, in that country; provided that the foregoing provisions of this clause (b) shall not prevent the modification of the hull of any challenger, or candidate, in the country in which an America's Cup Match is to take place so long as the modification or manufacture (i) is effected when the challenger or candidate is in such country and (ii) meets the requirements of clause (a) above; and

~~RESOLVED, that notwithstanding the provisions of the foregoing resolution, any yacht which was eligible as a candidate for the America's Cup Match in 1980 shall continue to be eligible thereafter provided that any material modification of the hull, rig or sails thereof shall be designed in accordance with the requirements of clause (a) of the foregoing resolution and any material modification of the hull thereof shall be completed in accordance with the requirements of clause (b) of the foregoing resolution; and~~

[Rescinded July 1, 1980]

RESOLVED that, for a candidate to be eligible for an America's Cup Match in any year subsequent to 1980, every member of the candidate's crew must be a national of the country in which the club represented by the candidate is located; and

RESOLVED that henceforth any reference to the Deed of Gift shall be deemed to include reference to the 1985 Resolution and to these Resolutions, which shall hereafter be known as the "1980 Resolutions" and that whenever hereafter the Deed of Gift is printed or otherwise reproduced, the 1958 Resolution and the 1980 Resolutions shall be printed or reproduced as an integral part thereof.

FOOTNOTES IN AMPLIFICATION

(March 9, 1982)

- ~~1. The requirements that a person be a national will be satisfied if the person is domiciled in, or has a principal place of residence in, or has a valid passport of that country since January 1, 1982.~~

[Rescinded May 1984 and replaced with revised words]

- ~~2. Designers of sails may cooperate on an international basis until March 1, 1982; after which date, sail designers of different countries may not collaborate. Sail designs done before that date may be copied exactly, while after that date the designers in a company may use the computer system and data bank of pre-March 1982 date freely but must not put back into the system post-March 1, 1982 information and must execute nationally independent sail designs~~

[Rescinded May 15, 1984]

(2) ~~(3)~~ A foreign designer—however he is designated—participating in the design of a boat or a sail would violate both the letter and spirit of the above Resolution, and any boat or sail so designed would be ineligible for use in America's Cup competition. Similarly, a hull or sails which are merely copies of those of a foreign designer would also be ineligible for use in America's Cup competition.

[Renumbered (2) May 15, 1984]

Regardless of whether a challenge has been accepted by the Defending Club in the belief that a boat complies with the Deed of Gift and subsequent Interpretive Resolutions, such acceptance does not immunize the boat from being challenged as to eligibility by another Challenging Club.

Vincent Monte-Sano, II
Secretary