

The second reservation, which provides that "Articles 1 and 4 of the convention shall not create in the United States a right of action for damages caused by death until such provision shall have been supplemented by appropriate action of the Congress of the United States," was necessary, as Congress has not yet legislated on this subject, and we deemed it our duty not to seek to establish a remedy by treaty when the matter was already before Congress for action.

The third provision, with regard to presumptions created by the laws of the United States, is not of great importance, as there are few statutory or other legal presumptions relating to collisions in our law. There are many such presumptions, however, in the laws of other countries, and it was for that reason that the conference adopted article 6, which provides that "all legal presumptions of fault in regard to liability for collision are abolished."

Article 5, which establishes liability in case of collision caused by the fault of a pilot, even though compulsory, brings the general law into harmony with our own.

Article 7 prescribes a limitation period of two years for bringing suits for collision, which we deemed a reasonable provision.

MARYLAND V. WEST VIRGINIA

The Articles of Confederation of July 9, 1778, finally adopted in 1781, declared, in the ninth article, that the "United States, in Congress assembled, shall also be the last resort on appeal in all disputes and differences now subsisting, or that hereafter may arise between two or more States concerning boundary, jurisdiction, or any other cause whatever." The method of settling disputes was by means of a temporary court of commissioners or judges chosen by consent of the parties representing the States, or from a list of thirty-nine commissioners, of whom not less than five should sit and determine the case. The Federal Convention of 1787 rejected the method of temporary courts composed of commissioners or judges, for one Supreme Court, which, among other powers, was invested, by Article 3, Section 2, with the power to try and determine "controversies between two or more States."

Since the establishment of the Supreme Court, thus provided for by the Constitution, there have been many suits between the States adjudicated by it. Boundaries between nations are regarded as political questions; boundaries between States of the American Union as judicial questions; and the Supreme Court, possessing original jurisdiction in cases to which States are a party, has frequently been called upon to determine questions of boundary. A consideration of these various cases and of the principles of law invoked by the parties and laid down by the Court, would form an interesting article, as it would show not merely

the extent and variety of controversies between States which may be submitted to judicial determination, but that there is comparatively no greater difficulty in the submission and decision of the ordinary controversies between States than there is between the submission and determination of corresponding suits between individuals. Nations are averse to a leap in the dark, and such an article would show that the experience of the United States in the judicial determination of controversies between States makes manifest that nations can safely do in the future what States have done in the past, and that the judicial determination of justiciable controversies by the fearless and impartial application of principles of justice in no way injures the national honor of the parties to the dispute.

A recent instance in point is the case of the State of Maryland versus the State of West Virginia¹ (217 U. S. 1), decided at the October term of the Supreme Court in 1909. The principles involved in the case were simple, although the facts were complicated. For many years there was a dispute between Maryland and that part of Virginia which now forms a part of the State of West Virginia. It was claimed by the State of Maryland that the Deakins Line of 1787 did not accurately conform to the terms of the charter of the State of Maryland, as appeared from a subsequent scientific survey, and, on the part of West Virginia, that its own boundary extended to the north side of the Potomac River. The Supreme Court found that although the Deakins Line, run in or about the year 1788, was inaccurate, it had been, nevertheless, acquiesced in by the States and by their respective citizens, and that long acquiescence of the line as the boundary was conclusive upon the States. The court further found that the Charter of Charles I to Lord Baltimore, in 1632, embraced the Potomac River, the soil under it, and the islands therein to the high-water mark on the southern and Virginia shore, and that, therefore, West Virginia as the successor of Virginia in this part of the territory, had no right, title or interest in or to the Potomac River. The language of the court is measured and dignified as becomes a decision affecting the rights of States. Thus, Mr. Justice Day, speaking for the court, said:

Upon the whole case, the conclusions at which we have arrived, we believe, best meet the facts disclosed in this record, are warranted by the applicable principles of law and equity, and will least disturb rights and titles long re-

¹ Printed in *Judicial Decisions*, p. 517.

garded as settled and fixed by the people most to be affected. If this decision can possibly have a tendency to disturb titles derived from one State or the other, by grants long acquiesced in, giving the force and right of prescription to the ownership in which they are held, *it will no doubt be the pleasure, as it will be the manifest duty, of the law-making bodies of the two States, to confirm such private rights upon principles of justice and right applicable to the situation.*

The court thereupon directed that a decree be entered settling the rights of the States to the western boundary in accordance with Deakins Line, and that commissioners be appointed to locate and establish said line. Should the respective States fail to agree upon three commissioners to run the line and to present a report, in accordance with the court's directions, the court stated that it would itself appoint commissioners and enter a decree in conformity with their decision.

SECRETARY KNOX'S VISIT TO CENTRAL AMERICA

On February 23d Secretary of State Philander C. Knox sailed from Key West on the Cruiser *Washington* upon an official visit to the Latin-American republics surrounding the Caribbean Sea and the Gulf of Mexico. The purpose of his journey was very similar to that of Secretary Root's trip to South America in 1906 — to convey to the people and the governments of the Central American States the formal testimony of the continued good will of the United States, to cement the ties of traditional friendship between them, and to promote an increasing commercial intercourse. The visit of the Secretary was well timed, in view of the early completion of the Panama Canal, and one of his main objects as revealed in his series of addresses, was to call the attention of the states directly bordering upon the Canal to the new opportunities for the development of our trade relations which will follow the re-alignment of international commerce, sure to follow the successful inauguration of this great interoceanic waterway. In announcing the visit of Secretary Knox, its purpose and significance were made plain in the following statement issued from the White House on February 10th:

The relations of the United States to the Spanish republics surrounding the Caribbean Sea and the Gulf of Mexico are of the utmost importance to us, in view of our interests and responsibilities in that region. The President thinks it will be of great assistance, in solving the diplomatic problems that are presenting themselves from day to day, if we manifest our friendly interest in these, our neighboring republics, by a visit to them of the Secretary of State.