

INTERNATIONAL LAW—EXECUTION ON JUDGMENT AGAINST FOREIGN POWER.—The government of Sweden, representing its railway administration, a corporation, in a suit brought in the United States District Court, answered a counterclaim filed by defendants. The counterclaim resulted in a judgment. Subsequently attachment proceedings after issuance of execution were brought on the judgment to obtain funds of the Swedish government on deposit, and the Swedish government presented plea of immunity against efforts of judgment creditor to obtain payment by execution. *Held*, consent by a foreign government to be sued does not give consent to seizure or attachment of its property. *Dexter & Carpenter v. Kunglig Jarnvagsstyrelsen* (C. C. A. 2, 1930) 43 F. (2d) 705.

The doctrine upon which the court relies is conceded to be the general rule both in America and England and on the Continent. Most of the American cases concern judgments against a state rather than a foreign state, but they also hold that the judgment does nothing but liquidate the claim even though the state has given its consent to be sued. *Westinghouse Electric Co. v. Chambers* (1915) 169 Cal. 131, 145 Pac. 1025; *Memphis & C. Railroad Co. v. Tennessee* (1879) 101 U. S. 337; *Carter v. State* (1890) 42 La. 927, 8 So. 836. Only in a suit between sister states in the Supreme Court of the United States will judgment be entered against a state and an execution issued thereon. *Virginia v. West Virginia* (1918) 246 U. S. 565. In *Oliver American Trading Co. v. Mexico* (C. C. A. 2, 1924) 5 F. (2d) 659, an attachment issued against a foreign state was vacated. Dicta in two other cases in which foreign states were involved indicate that judgments rendered against such states can not be enforced against the property of the foreign government in the absence of consent by that government. *Coole v. Societe Cooperative Suisse des Charbores, Basle* (D. C. N. Y. 1921) 21 F. (2d) 180; *French Republic v. Inland Navigation Co.* (D. C. Mo. 1920) 263 F. 410.

As the Court points out the Continental rule varies with the country in which the judgment is rendered. A French decision permits seizure of property under the judgment unless the cause of action arose out of an act regarded as strictly private. *Balquerie c. Gouvernement Espagnol*, Court of Appeal of Paris, Jan. 7, 1825. The German rule is quite in accordance with the American rule. *Von Hellfeld v. Imperial Russian Government*, *Zeitschrift fuer Internationales Recht* XX (1910) 416. The Italian rule allows seizure of the government's property on a reciprocity basis, that is, if the foreign government extends immunity in such cases to Italy, Italy will do likewise. *Giurisprudenza Italiana*, 1925, p. 271. Switzerland enforces the judgments on the basis of a statute to that effect. *Dreyfus v. Austrian Finance Ministry* (1918) *Arrets du Trib. Federal Suisse*, Vol. 44, 1-49. The English rule is also in accordance with the American rule. *In re The Tervaete* (1922) *Provate*, 197, 203; *The Parlement Belge*, L. R. 5 P. D. 197, 207-214; *Duff Development Co., Ltd., v. Government of Kelantan* (1923) 1 Ch. 385, House of Lords, (1924) A. C. 797.

The only comment to be made on the case is that succinctly stated by

the Court: "It is regrettable that Sweden may thus escape payment of a valid judgment against it." G. E. S., '31.

SERVICE OF PROCESS—EXEMPTIONS—NON-RESIDENT ATTORNEYS.—Following a suit brought by judgment creditors in a Federal district court in Mississippi to set aside certain fraudulent made by a debtor to his wife, one Lamb, a citizen of Illinois, was cited to show cause why he should not be punished for contempt of the Mississippi Federal court in receiving money which, it was claimed, was paid to him in the guise of legal fees, but which in fact belonged to the judgment creditor. An ancillary proceeding was filed by the receiver appointed in the original suit to recover this money as trust funds, service being had upon Lamb while he was in the district defending his client. *Held*, defendant non-resident attorney is exempt from service of civil process while in attendance upon court and during a reasonable time in coming and going. *Schmitt v. Lamb* (D. C. N. D. Miss. 1930) 43 F. (2d) 770.

The court's ruling is in accord with the general common law doctrine followed in practically all jurisdictions today. *Page v. Macdonald* (1922) 261 U. S. 446; *Read v. Neff* (D. C. Iowa 1913) 207 F. 890; *Williams v. Hatchet* (1913) 95 S. C. 49, 78 S. E. 615. However, there are some cases which hold to the contrary on the ground that any other holding would allow non-resident attorneys to practice in the state with immunity from process of the courts of that state. *Kutner v. Hodnett* (1908) 50 Misc. 21, 109 N. Y. S. 1068.

The doctrine of the immunity of non-resident witnesses and attorneys from service of civil process was established for the benefit of litigants. The principle is well founded, for otherwise witnesses would refuse to come into states in which they feared process. Furthermore, a litigant has the right to choose any attorney that he wishes to defend him. If the attorney chosen refuses to come into the state because of fear of civil action against him, the right of the litigant to universal choice of an attorney is unduly limited. The generally accepted rule allowing witnesses and attorneys immunity within a reasonable time for coming and going seems logical, for otherwise the privilege would be useless. *Greenleaf v. People's Bank of Buffalo* (1903) 133 N. C. 292, 45 S. E. 638.

But in cases under which this doctrine arose the actions under which the civil processes were sought had no relation to the suit of the litigant. However, in the instant case the suit against the non-resident attorney arose as the result of the same subject of action as was prosecuted against his client. The suit against the attorney, if successful, would have resulted only in gaining the same end sought in the suit against his client. Therefore this situation seems to be a logical exception to the general rule.

M. E. S., '31.

STATUTES—CONSTRUCTION—AIRPLANE AS VEHICLE UNDER NATIONAL MOTOR VEHICLE THEFT ACT.—Defendant was convicted under the National