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Today in America's Cup History – 25 Oct

Human Rights Prohibit Some America's Cup Venues

This week, the 27th October marks a dozen years since the delivery of an important, but little known judgment of the New York Supreme Court that affects all future venue selections for America's Cup.

During the litigious 33rd America's Cup, the then defender, Société Nautique de Genève selected Ras Al Khaimah, one of the seven Emirates comprising the United Arab Emirates, as the venue for the match. The challenger, the Golden Gate Yacht Club, objected and the validity of the selected venue was the subject of a New York Supreme Court oral judgment. That judgment included the following concluding statement of the Supreme Court for the benefit of future venue selections:

"Again, although not specifically addressed, what I do want to state, and I'm stating this because in the future it may come up, the Deed of Trust requires "friendly competition between foreign nations [sic]."

Now in keeping with this requirement, I believe that any venue – in keeping with this requirement, and also in keeping with the laws of New York and of the United States against discrimination, any venue that is selected must be a venue that permits spectators and competitors from any nation and religion to take part.

I'm just stating for the record, because that would be an issue were any nation or any religion barred from taking part, both as a spectator and as a competitor in any race, in any nation.

This is a Deed of Trust under New York and United States law, and there is no discrimination under our laws."

This judgment, later upheld by a New York appellate court, would seem to eliminate any prospective venue for the 37th America's Cup that has discriminatory laws or practices which conflict with those of New York and the United States. Based on present media reports as to some prospective venues for the 37th America's Cup, such as Jeddah in Saudi Arabia and possibly the United Arab Emirates (the later is already on record as a rejected Americas Cup venue by the New York courts) would not appear to qualify as venues able to be selected by any America's Cup Defender.

Whether the Deed of Gift permits a venue to be selected outside a defender club's annual regatta home waters is another unresolved legal issue, which was only narrowly avoided being litigated during the Mercury Bay litigation, after the San Diego Yacht Club changed its initial venue selection from Long Beach to San Diego for the disputed big boat v. catamaran match of 1988.