

## CHAPTER XI.

## AN INTERNATIONAL PRIZE COURT.

Anomalies of  
present Prize  
Courts.

§ 306. It cannot now be seriously disputed that the chief function of a Prize Court is to decide international questions, since the cases it is called upon to determine concern principally the rights and duties of foreign States and their subjects. On this ground, it appears that there is considerable force in the criticisms advanced against the existing Prize Courts by the most authoritative international publicists.<sup>1</sup> It has been urged that a tribunal which is restricted in its jurisdiction and procedure by municipal enactments is not peculiarly fit to administer international justice. It is anomalous that the application and interpretation of international law should be entrusted, in the last resort, to Courts set up by one of the parties to the dispute, composed of judges appointed by the authority of the country in which they are situated and bound, in many instances, to obey the law of the land.

Origin of the  
rule that all  
prizes must  
be judged.

§ 307. This anomaly becomes more clear when the reasons for the institution in the past of Prize Courts are examined. The origin of the old rule that "all prizes must be judged" is intimately

<sup>1</sup> J. Westlake, *International Law*, Second Edition (1913), Vol. 2, p. 317; L. Oppenheim, *International Law*, Third Edition (1921), Vol. 2, p. 629; T. J. Lawrence, *Principles of International Law*, Seventh Edition (1923), p. 470; E. Nys, *Le droit international* (1912), Vol. 3, p. 714, and *La guerre maritime* (1881), p. 123.