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MINUTES OF MEETING OF MARITIME LAW ASSOCIATION HELD AT THE ASSOCIATION OF THE BAR, 42 WEST 44th STREET, FEBRUARY 10, 1922.

The meeting was called to order at 4 o'clock by Mr. C. C. Burlingham, the President Hon. Charles M. Hough being confined to his home ill. Upon motion of Mr. Burlingham, Mr. Edward E. Blodgett was unanimously elected chairman of the meeting. Those present at the meeting were:

Ray Rood Allen
George W. Betts, Jr.
Edward E. Blodgett
William H. Blymyer
Allen B. A. Bradley
Pierre M. Brown
Charles Burlingham
Chauncey I. Clark
Samuel C. Coleman
Victor Cutting
Harold S. Deming
D. Roger Englar
A. Leo Everett
Earl Farwell
Allen Evarts Foster
Frederick Foster
Albert T. Gould
Charles S. Haight
Charles R. Hickox
William V. Hohenberger, Jr.
Oscar R. Houston
Roscoe H. Hupper
A. S. Jones
Henry H. Little
Russell H. Loines
Howard M. Long
George de Forest Lord
Carleton L. Marsh
Anthony M. Menkel
A. Gordon Murray
Frederick Pennell
Wharton Poor
Harrington Putnam
E. Curtis Rouse
Julian B. Shope
Herbert K. Stockton
James K. Symmers
George H. Terriberry
Van Vechten Veeder.

On motion duly made and seconded, the reading of the minutes of the previous meeting was dispensed with, inasmuch as they had been printed and distributed to all members.

Mr. A. Leo Everett reported upon the Congressional Investigation of the Federal Judicial System; states that this proceeding had ended in nothing because of conflicts between various committees in Congress. At Mr. Everett's request, upon motion duly made and seconded, this committee was discharged.

Mr. Pierre M. Brown reported for the Committee, consisting of Mr. J. Parker Kirlin, Mr. Edward E. Blodgett and himself, on Appeals from Interlocutory Decrees of Liability. A copy of the report is printed as an appendix to these minutes. He added orally that as a result of correspondence with a very large number of firms throughout the country, he had ascertained that sentiment appears to be unanimous for the allowances of such appeals, but that a majority of his correspondents indicated their belief that the appeal should be allowed only by leave of court. A majority also believed that the power to grant leave to appeal should be in the District Judge trying the case because it would often be appropriate that leave should be upon terms, and the District Judge would be better advised of all the circumstances necessary to be taken into account in fixing terms. He stated that some of his correspondents were also in favor of empowering the Trial Judge to stay all proceedings upon terms, pending appeal.

Mr. Blodgett stated that as a result of rather wide inquiries upon his part, he had ascertained a unanimous sentiment in favor of some method of allowing such appeals, but that there was a considerable difference of opinion as to the method. Mr. Hickox stated that he believed that if there were to be no stay, then the right to appeal should be absolute; but that if there were to be a stay, then the appeal should be only by leave of the Trial Judge. Mr. Clark favored an appeal as a matter of right, but was doubtful upon the question of stay. Mr. Brown favored appeal only by leave of the Trial Judge.

Mr. Blodgett then put to vote of the meeting the preliminary question as to whether the meeting were in favor of an appeal, leaving open the question as to whether it should be as a matter of right or only upon leave. The meeting voted unanimously in favor of some provision for an appeal.

Mr. Haight stated that he was against the granting of any stay unless security were given and believed that the Trial Judge should be the one to pass upon the question.

Mr. Blodgett then put to the meeting the question whether the Association should favor an appeal from interlocutory decrees as unconditional matter of right. The vote was "No."

Mr. Englar stated that he would limit the imposition of terms solely to the requirement of proper security.

Mr. Everett advocated limiting the stay to the entry of final decree, allowing no stay in respect of assessment of damages.

Mr. Englar moved that the Association go on record as in favor of allowing appeals from interlocutory decrees as a matter of right, conditioned only upon the giving of a bond to the full amount of the claim (if not already on file); leaving to the discretion of the Trial Judge the question whether the proceedings should be stayed pending the hearing of the appeal. This motion was carried, the only votes in opposition being those of Judge Veeder and Mr. Brown.

Upon motion of Mr. Haight, it was duly voted that the report of the committee be accepted and adopted and the committee continued with instructions to take steps to give effect to the foregoing vote. The vote upon this motion was unanimous.

Mr. Burlingham reported for the committee, consisting of himself and Messrs. Robert M. Hughes and Dawson, that on the bill introduced in the Senate by Senator Colt at the request of Mr. Cunningham to amend the Judicial Code and save to suitors their common law remedy in maritime cases, the committee did not wish to recommend action by the Association, and therefore asked to be discharged. On motion duly made and seconded, the committee was discharged.

Mr. Burlingham reported for the committee, consisting of himself, Mr. Howard M. Long and Mr. Frederic Cunningham, appointed at the meeting of May 6, 1921, to consider and report on the advisability of recommending that by rule, statute or otherwise, damages in collision cases should be allocated in proportion to the degree of fault. A copy of the report is printed as an appendix to these minutes.

Upon motion of Mr. Englar the report was ordered received, filed, printed and distributed and the committee continued. The vote upon this was unanimous.

Judge Putnam, in compliance with a request previously made of him by the President, read a report concerning the impending Maritime Convention upon the topics of (1) limitation of liability and (2) mortgages and liens.

Mr. Burlingham stated that Secretary of State Hughes had referred to Secretary of Commerce Hoover the question of sending delegates to a new International Maritime Conference about to be called in Brussels and that Mr. Hoover had written Mr. Burlingham for his views. Mr. Burlingham had stated to the Government that he was strongly of the opinion that any intended delegates should meet with the Departments of State and Commerce and with the Shipping Board and be instructed; that he did not think that anyone should be sent as a delegate without instructions, particularly in view of the fact that the United States had declined to become a party to the collision treaty. Mr. Burlingham urged the Association to go into the whole question thoroughly in order to assist the Government in forming its point of view well in advance of the time when the delegates would go to Belgium.

Upon motion made by Mr. Burlingham and amended by Mr. Murray, the Association unanimously resolved that Judge Putnam's report be printed together with draft International Convention for the Unification of Rules of Limitation of Liability, and distributed to the members and the matter taken up again by the Association at an adjourned meeting to be held on March 10th at 2 P. M. at the same place, and that in the meantime the President appoint a committee of not less than five members to study the matter and report to the special meeting. Upon motion of Mr. Haight this resolution was amended to read that Judge Putnam should be chairman of the committee with power to select his co-members. This resolution was unanimously adopted.

Mr. Haight reported orally upon the Husted Bill. He stated that a year ago he had reported upon the prospects of its passage as being extremely good in view of its apparent favorable position before the Committee in Congress. He stated that Mr. Husted had from time to time expressed the confident hope that the bill would pass; but that a few weeks ago Mr. Haight had discovered that the bill had not yet been reported by the present

Judiciary Committee. Mr. Husted had quite recently again said that he hoped the bill would pass in this session. The decision in the *Western Maid* had greatly increased the importance of getting the bill passed. Upon the argument of that case the Solicitor General had said that at least 200 cases involving not less than $20,000,000 were involved in the decision. The injured parties in those cases were now relegated to private enabling acts. Mr. Haight stated that he had been gathering reports from members of the Association and had learned of 350 cases against Government-owned ships, over 200 of which were barred by the decision of the *Western Maid*. He stated that unless unusual pressure could be brought upon Congress, it was not likely that the legislation would be got through. He stated that numerous international treaties provide a method by which such claims can be referred to the Hague for trial. He urged putting before the Foreign Offices of the various countries as many as possible of these claims with a view to presenting them to our State Department. He read a list of the treaties and quoted therefrom. A copy of his memorandum upon the treaties and their provisions is printed as an appendix to these minutes. He stated that Secretary of State Hughes had acted under the Norwegian treaty recently in connection with claims of Norwegian citizens arising out of the requisition of their new buildings. He urged an increase in the committee's number in order that the matter be followed up at Washington. He stated that Mr. Walsh was opposed to the bill and that Mr. Husted, its most active proponent, had been promoted to the Ways and Means Committee.

Mr. Blodgett commented upon the recent action of Congress in refusing to increase the power of the Navy Department to settle claims up to $5,000, the limit being set at $1,000.

Upon motion of Mr. Englar, Mr. Haight was authorized to add two more members to his committee.

Mr. Loines reported for the committee, consisting of himself, Mr. Ira A. Campbell and Mr. Alfred Huger, on Workmen's Compensation Legislation. A copy of the report is printed as an appendix to these minutes.

The reading of this report was followed by a discussion as to whether the Association should favor Federal legislation which

would bring ship repairmen within the scope of such acts or whether it should favor legislation confining relief to seamen and to stevedores working for the ship.

Mr. Loines was authorized to telegraph the chairman of the Congressional Committee opposing pending legislation amending the Judicial Code on the ground that it is unconstitutional and recommending the passage of a Federal Compensation Act covering longshoremen engaged in interstate commerce, etc. This was unanimously passed by the Association. A copy of the telegram as sent is printed as an appendix to these minutes. Upon motion of Mr. Haight the report was accepted and the committee continued with instructions to report further on March 10th.

Mr. Englar reported for the committee investigating the McKellar Bill and stated that as the bill was apparently moribund, the committee had merely kept in touch with the situation and had not felt called upon to do anything.

Mr. Englar then suggested that the Association take up the consideration of the Hague Rules and appoint a committee to formulate a proposed attitude by the Association as to the wider adoption of these rules. At his request Mr. Haight addressed the meeting and discussed the general nature of the Hague Rules as well as the movement now on foot to extend their application. Mr. Haight stated that the rules amounted substantially to a codification of the Harter Act, but that cargo owners under the rules secured three changes in their favor, viz.: an increase in the limit of liability for damage up to £100 per package; a provision that the carrier may not outlaw claims presented within twelve months; a provision shifting the burden of proof to the carrier upon questions of pilferage. He stated that the shipowners were willing to make these concessions provided the rules could be made applicable to all shipowners so that there should be a fair race in competition for business. He stated that the bankers abroad as well as most shippers in Europe were in favor of the rules; but that opinion in America was still unformed and that the Shipping Board's attitude was merely negative. He stated that many foreign lines were now preparing to put the rules into effect upon westbound traffic, but that before they put it into effect on the eastbound traffic they desired an

amendment to the Harter Act eliminating seaworthiness as a condition precedent to the exemption from liability for the results of errors of navigation. He urged that the Association urge upon Congress the passage of a bill amending the Harter Act substantially in the form submitted by Mr. Kirlin to the effect that anyone issuing a bill of lading in accordance with the Hague Rules should be held to have issued a legal, enforcible document, any provision in the United States statutes to the contrary notwithstanding. He pointed out, however, the necessity of safeguarding the provisions of the Pomerene Act.

Mr. Englar moved that the chair appoint a committee of three to consider the rules and report on March 10th. This motion was unanimously carried. In accordance therewith the chair appointed Messrs. Englar, Hickox and Hupper.

The meeting then adjourned to March 10th at 2 P. M. at the same place.

HAROLD S. DEMING,
Secretary.

REPORT TO THE MARITIME LAW ASSOCIATION OF COMMITTEE ON APPEALS FROM INTERLOCUTORY DECREES OF LIABILITY.

The Committee appointed to consider and report on the advisability of recommending the passage of an act permitting appeals to be taken from interlocutory decrees of liability without staying the proof by damage claimants on their claims has considered the matter and discussed it with other members of the Association and now reports its opinion that it is desirable that the Association should recommend the passage by Congress of an act permitting appeals to be taken from interlocutory decrees of liability without staying the proof by damage claimants on their claims.

The Committee is of opinion that if such legislation should be adopted the hearing of appeals would be expedited and much labor on references to compute damages might be avoided.

If an appeal could be taken on the question of liability immediately after the entry of an interlocutory decree it might be possible in many instances to obtain a hearing on the appeal before in ordinary course proofs on damages could be submitted to a commissioner and the damages assessed and final decree entered.

If the appeal on the liability should be allowed and the decree appealed from reversed, the matter would end there with a saving of expense and labor to both sides. If the decree on liability should be affirmed, the question of damages only would remain open. Probably in very few instances would any appeal be taken on the question of damages alone; but if it should be, there would not be any duplication of work on the part of court or counsel.

It seems quite likely also that in many instances references on damages would be altogether avoided if the question of liability could be speedily determined by the Court of Appeals, while at present parties may be disposed to contest the proofs on damages having in view an appeal on the entire case.

The allowance of an appeal on the question of liability without staying the proofs on damages would not prejudice the

party obtaining the decree nor deprive him of any remedies that he has under existing law.

If before the hearing took place on the appeal on the question of liability the damages should be assessed and final decree entered, it might well be provided that if any appeal is to be taken on the question of damages it should be heard with the appeal on the question of liability and the party appealing should be required to give a supersedeas bond as in any appeal from a final decree. This might result in the entire matter being disposed of at a considerably earlier date and perhaps at an earlier term of court than if it should be necessary to wait until a final decree should be entered before any appeal could be taken.

The appellate jurisdiction of the Court of Appeals rests on Section 128 of the Judicial Code and is limited to the hearing of appeals from final decrees. It would be necessary to secure an amendment to that section to permit an appeal from an interlocutory decree on liability. The determination of the form that such an amendment should take has not been fully considered by the Committee.

It is suggested that if the Association favors the change recommended in this report either the present committee or another committee to be appointed by the chair should be empowered to draft an amendment to Section 128 of the Judicial Code and then take the matter up with the appropriate Committees in Congress with a view to securing the passage of the necessary legislation.

Dated February 8, 1922.

J. PARKER KIRLIN
PIERRE M. BROWN
EDWARD E. BLODGETT.

REPORT TO THE MARITIME LAW ASSOCIATION OF COMMITTEE ON COLLISION DAMAGES.

To the Maritime Law Association of the United States:

At the meeting of the Association held May 6, 1921, the undersigned were appointed a Committee "to consider and report on the advisability of recommending that by rule, statute or otherwise damages in collision cases should be allocated in proportion to the degree of fault."

The Convention signed at Brussels, September 23, 1910, by the representatives of twenty-five Governments was ratified by all the Governments represented except the United States, the Argentine, Chile, Cuba, Spain and Uruguay. The rule of proportional liability was already in force on the Continent of Europe, and the Convention involved only minor changes for Continental countries. For Great Britain it involved a radical change. By the Maritime Conventions Act, 1911, Great Britain put into its statute law the provisions of the Convention of 1910 as to proportional liability. The Act provides that—

> "Where, by the fault of two or more vessels, damage or loss is caused to one or more of those vessels, to their cargoes or freight, or to any property on board, the liability to make good the damage or loss shall be in proportion to the degree in which each vessel was in fault:
>
> "Provided that—
>
> (a) if, having regard to all the circumstances of the case, it is not possible to establish different degrees of fault, the liability shall be apportioned equally; and
>
> (b) nothing in this section shall operate so as to render any vessel liable for any loss or damage to which her fault has not contributed; and
>
> (c) nothing in this section shall affect the liability of any person under a contract of carriage or any contract, or shall be construed as im-

> posing any liability upon any person from which he is exempted by any contract or by any provision of law, or as affecting the right of any person to limit his liability in the manner provided by law."

The Act provides further that—

> "Where loss of life or personal injuries are suffered by any person on board a vessel owing to the fault of that vessel and of any other vessel or vessels, the liability of the owners of the vessels shall be joint and several,"

with a right of contribution as between the owners of the two vessels.

So far as we can learn from the published reports, the new system adopted by Great Britain has worked well. In Lloyd's List of shipping cases for 1920, we find 239 collision cases. In 196 of these the Court found one or the other vessel solely at fault. In 43 it apportioned the damages, dividing them equally in 29 cases, and fixing the damages at one-third and two-thirds and one-fourth and three-fourths in 14.

The Convention of 1910 was never sent to the Senate by our State Department, and it seems to us that it would be simpler to draft a bill like the British Maritime Conventions Act, 1911, and have it introduced in Congress. So far as damage to vessels themselves is concerned, we believe that such a bill would meet with little or no opposition. The situation is, however, more difficult in relation to cargo, owing to the fact that under our law, while the cargo cannot recover directly from the carrying vesesl, it can recover in full from the non-carrying vessel, which is permitted to set off one-half of the amount paid against the claim of the carrying vessel for its own damages (*The Chattahoochee,*).

The cargo interests, and particularly cargo underwriters, would probably object to any change in the law which deprived them of their full recovery in case of a collision through mutual fault. We do not ourselves think the objection could be well taken, for the question at bottom is merely one of insurance—

which set of underwriters should bear the loss. Moreover, if the Hague Rules are to be adopted in this country, they will express our policy as it was supposed the Harter Act expressed it, and will relieve the carrying vessel from liability to cargo because of faulty navigation. This being so, the cargo underwriters have no ground for complaint because they are cut off from recovering part of their damages by the contract of carriage or the policy of our law.

We submit herewith a draft of a bill to carry out the provisions of the Convention of 1910, and recommend that the Association appoint a Committee to confer with the Shipping Board, with a view to the introduction of the bill in Congress.

CHARLES C. BURLINGHAM
HOWARD M. LONG
FREDERIC CUNNINGHAM.

REPORT TO THE MARITIME LAW ASSOCIATION OF COMMITTEE ON WORKMEN'S COMPENSATION LEGISLATION.

The Committee referred, in its last report of May 6th, 1921, to the Bill introduced by Senator Johnson to amend Section 24 and Section 256 of the Judicial Code to permit State Workmen's Compensation Acts to apply to injuries to maritime workers other than masters and members of the crews of vessels. This Bill passed the Senate on June 10th, 1921, after a favorable report by the Judiciary Committee which held no hearings; and it was then considered by the House Judiciary Committee at hearings on June 14th and 28th. At the second of these hearings, the Chairman of your Committee appeared in opposition to the Bill and made a plea for Federal Legislation on the subject of Workmen's Compensation for Seamen, as well as for other maritime workers. The counsel to the former administration of the Shipping Board also appeared before the Committee and asked for time for the Shipping Board to express its views on the Bill. The Committee held no further hearings, but, in October last, the Shipping Board advised the Chairman of the Committee that, in view of a difference of opinion in the Board as to the policy of the legislation, the Board would refrain from expressing any view in favor, or against, the Bill. The Judiciary Committee appears to have had further misgivings as to the constitutionality of the Bill and referred the subject to a Special Committee, of which Representative Chandler, of New York, was one of the members. On January 31st, 1922, the Committee reported the Bill favorably, and it is now in the hands of Mr. Chandler, who will probably move it for passage at an early date.

The Supreme Court of the United States, in the recent case of the *Grant Smith-Porter Ship Company* v. *Herman F. Rhode,* has encouraged the proponents of the pending Bill by a decision which permits the extension of a State Compensation Act to an employee of a shipbuilding company who was injured on a vessel lying at a dock of the shipbuilding company. The court held

that the contract for the construction of the vessel was non-maritime and, although the "incomplete structure," upon which the accident occurred, was lying in navigable waters, neither the injured man's general employment, nor his activities at the time, had any direct relation to navigation or commerce. Both parties had proceeded under a State statute, making compensation the exclusive remedy for injuries, and payments had been made to an industrial accident fund. The court said that the parties having contracted with reference to the State statute, their rights and liabilities had no direct relation to navigation, and "the application of the local law cannot materially affect any rules of the sea whose uniformity is essential."

Whether the Supreme Court will extend the doctrine of this case to work of stevedoring on a vessel actually engaged in commerce, in view of the death of one of the five majority members of the court who decided the Knickerbocker Ice Company case, is a matter for interesting speculation. But the Rhode decision does not change the conviction of your Committee that Congress in making a second attempt to apply the State Compensation Laws to maritime injuries to stevedores, and others, is only continuing the already uncertain and unsatisfactory status of the rights of the workers and of shipowners. If the Bill passes, there will be another two years of uncertainty in the law, pending Supreme Court decision. Your Committee has expressed the opinion that Federal legislation on this subject, without question as to constitutionality, would secure the rights of maritime employer and employee, and would provide a sufficiently workable system. A bill on these lines was prepared with Admiral Benson's approval and submitted to the House Committee on the Judiciary for its consideration. This bill had the general approval of your Committee, but included seamen, as well as stevedores and other maritime workers. We are advised that, at the present time, the Seamen's Union is so well contented with the handsome returns for injuries secured under the Jones Act that it has no desire for a Workmen's Compensation measure, unless it retains the option of bringing suit for damages.

Your Committee invites the Association to consider the question of expressing itself to Congress on the subject of the pending legislation, and it requests instructions as to what further

action, if any, it should take with regard to the question of Workmen's Compensation for Seamen.

February 10th, 1922.

For the Committee,

RUSSELL H. LOINES,
Chairman.

MEMORANDUM IN RESPECT TO THE PRESENTATION THROUGH DIPLOMATIC CHANNELS AND EVENTUAL INTERNATIONAL ARBITRATION OF CLAIMS FOR COLLISION BY CITIZENS OF FOREIGN COUNTRIES AGAINST THE UNITED STATES.

The treaty with Norway of 1908 which is selected as typical of other treaties entered into by the United States (reference to other treaties is made in an appendix) provides as follows:

"Article I.

Differences which may arise *of a legal nature* or relating to the interpretation of treaties existing between the two Contracting Parties and which it may not have been possible to settle by diplomacy, shall be referred to the Permanent Court of Arbitration established at The Hague by the Convention of July 29, 1899, provided, nevertheless, that they do not affect the vital interests, the independence, or the honor of the two Contracting States, and do not concern the interests of third Parties."

"Article II.

In each individual case the High Contracting Parties, before appealing to the permanent Court of Arbitration, shall conclude a special Agreement defining clearly the matter in dispute, the scope of the powers of the Arbitrators, and the periods to be fixed for the formation of the Arbitral Tribunal and the several stages of the procedure. It is understood that on the part of the United States such special agreements will be made by the President of the United States by and with the advice and consent of the Senate thereof."

"Article III.

The present Convention shall be ratified by the President of the United States of America by and with the advice and consent of the Senate thereof; and by His

> Majesty the King of Norway. The ratifications shall be exchanged at Washington as soon as possible, and the Convention shall take effect on the date of the exchange of its ratifications." (Malloy's Treaties, Conventions, etc., of the United States, Vol. II, p. 1307.)

If a collision takes place between a privately owned and government owned vessel, for which the government owned vessel is at fault, a claim is created against the government which is recognized in international law and which may be prosecuted by the government of which the private owner is a national. It is, of course, a condition of the right to relief through diplomatic channels that claimant's rights in the courts should be exhausted. In view of the decisions in the cases of *The Western Maid, Carolinian* and *Liberty,* it is obvious that foreign owners have no remedy for collisions in the U. S. Courts due to the fault of public vessels of the United States.

In Moore's International Law Digest, Vol. VI, p. 757, it is said:

> "February 21, 1885, the American schooner *Lanie Cobb,* while at anchor in the harbor of Laguayra, was run into by the Venezuelan schooner *Ana Eulogia,* which was owned by the President of Venezuela and was in the service of the Venezuelan Government. The master of the *Lanie Cobb* sought to obtain redress from the Venezuelan authorities, both administrative and judicial, but without success. In September, 1885, the American minister in Caracas was instructed to demand from the Venezuelan Government an indemnity of $1,986. A clearer case, said the Department of State, of a denial of justice could scarcely be conceived. The master had sought to secure an equitable settlement, which, after much circumlocution, was denied him. As the *Ana Eulogia,* at the time of the accident, was under the commission of the Venezuelan Government, it was contended that that Government was responsible for damage inflicted 'on account of the careless and inexcusable acts' of those on board. 'The right of our citizens,' said the Department of State,

'to demand compensation for damages which they may sustain, as in the accident to the *Lanie Cobb,* as well as that of a government to insist upon due reparation of such wrongs in behalf of its citizens, whenever necessary, is one which belongs to them by the rules of international law, and which is so recognized by all civilized countries.'

Mr. Bayard, Sec. of State, to Mr. Scott, min. to Venezuela, No. 22, Sept. 3, 1885, For. Rel. 1885, 923. See, also, For. Rel. 1885, 903, 905, 913, 914, 915, 926."

So also in Mr. Borchard's "Diplomatic Protection of Citizens Abroad," it is said:

"The heads of the military arm of the Government, the commander of vessels and of armed land forces, are presumed to represent the state in their official acts, and to involve its responsibility for unlawful acts inflicting injury upon aliens. * * * Similarly, a violation of frontiers, *collision of a private vessel with a national public vessel through the latter's fault,* or the illegal capture of private vessels involves the responsibility of the state" (pp. 187, 188, Sec. 78, citing authorities).

Collisions between public vessels of the United States and vessels owned by nationals of other countries have frequently been submitted to arbitration and awards entered against the United States.

The Treaty of August 20, 1853, between the United States and Great Britain provided in part as follows:

"The high contracting parties agree that all claims on the part of corporations, companies, or private individuals, citizens of the United States upon the Government of Her Britannic Majesty, and all claims on the part of corporations, companies, or private individuals, subjects of her Britannic Majesty, upon the Government of the United States, which may have been presented to either Government for its interposition with the other since the

> signature of the treaty of peace and friendship concluded between the United States of America and Great Britain, at Ghent, on the 24th of December, 1814, and which yet remain unsettled, as well as any other such claims which may be presented within the time specified in Article III, hereinafter, shall be referred to two Commissioners, etc." (Malloy's Treaties, Conventions, etc., Vol. I, p. 665).

Under this treaty an award was made to the owners of the British brig *Confidence* arising out of a collision between the *Confidence* and the American frigate *Constitution,* which took place on December 1, 1851, in the Straits of Gibraltar (Moore's International Arbitrations, Vol. III, pp. 3063, 3064).

Article 12 of the Treaty with Great Britain of July 4, 1871, contained provisions similar to those contained in the Treaty of 1853 above referred to. Under the Treaty of 1871, the owners of the British brigantine *Maderia* were allowed damages in the amount of $14,081 for a collision which took place on October 3, 1863, between the *Maderia* and the *Clyde,* a steamer transport of the United States, on account of the neglect and default of the officers of the *Clyde* (Moore's International Arbitrations, Vol. IV, p. 4395).

The Norwegian Treaty of 1908 has recently been applied to the claim of Norwegian shipowners whose vessels building in the United States were requisitioned by the Government in August, 1917. This was done in the form of a treaty between the United States and Norway, the original treaty of 1908 providing that in each case a special agreement should be made defining clearly the matter in dispute, etc., and that

> "on the part of the United States such special agreement will be made by the President of the United States by and with the consent of the Senate thereof."

The treaty relating to the Norwegian new buildings was proclaimed on August 24, 1921 (Treaty Series No. 654), "Agreement between the United States and Norway for the Submission to Arbitration of Certain Claims of Norwegian Subjects." The Treaty provides,

"The claims are to be submitted to arbitration conformable to the Convention of October 18, 1907, for the pacific settlement of international disputes, and the Arbitration Convention concluded between the United States and Norway April 4, 1908, and renewed by agreement stated June 16, 1913, and March 30, 1918, respectively."

APPENDIX.

The following countries have Arbitration Conventions with the United States similar to that subsisting between this country and Norway.

Nation	*Date*	*Term*	*Extended*
Netherlands	May 2, 1908	5 yrs.	May 9, 1914 & Mar. 8, 1919
Spain	Apr. 20, 1908	5 yrs.	May 29, 1913 & Mar. 8, 1919
Italy	Mar. 28, 1908	5 yrs.	May 28, 1913 & Mar. 20, 1919
France	Feb. 10, 1908	5 yrs.	Feb. 13, 1913 & Feb. 27, 1918
Gt. Britain	Apr. 4, 1908	5 yrs.	May 31, 1913 & June 3, 1918
Japan	May 5, 1908	5 yrs.	June 28, 1913 & Aug. 23, 1918
Uruguay	Jan. 9, 1909	5 yrs., and thereafter until one year's notice of termination.	
Sweden	May 2, 1908	5 yrs.	June 28, 1913
Switzerland	Feb. 29, 1908	5 yrs.	Nov. 3, 1913
Austria-Hun.	Jan. 15, 1909	5 yrs.	May 6, 1914
Salvador	Dec. 21, 1908	5 yrs.	May 13, 1914
Portugal	Apr. 6, 1908	5 yrs.	June 28, 1913
Costa Rica	Jan. 13, 1909	5 yrs.	Mar. 16, 1914
Brazil	Jan. 23, 1909	5 yrs.; if not announced six months before end of said term is renewed for equal period of 5 yrs., and so on, successively.	
Denmark	May 18, 1908	5 yrs.	
China	Oct. 8, 1908	5 yrs.	
Peru	Dec. 5, 1908	5 yrs., and thereafter until one year's notice of termination.	
Paraguay	May 13, 1909	5 yrs.	
Haiti	Jan. 7, 1909	5 yrs., and thereafter until one year's notice of termination.	
Ecuador	Jan. 7, 1909	5 yrs., and thereafter until one year's notice of termination.	
Mexico	Mar. 24, 1908	5 yrs.	

All of the above Arbitration Conventions provide, as does that concluded April 4, 1908, between the United States and Norway (extended June 16, 1913, and March 30, 1918), that the respective parties shall refer to the Permanent Court of Arbitration established at The Hague,—

"all differences which may arise of a legal nature, or relating to the interpretation of treaties existing between the two High Contracting Parties, and which it may not have been possible to settle by diplomacy, * * * provided, nevertheless, that they do not affect the vital interests, the independence, or the honor of the two High Contracting Parties, and do not concern the interests of Third Parties."

February 13, 1922.

Hon. Walter M. Chandler
House of Representatives
Washington, D. C.

BILL HR FIVE THREE FIVE ONE MARITIME LAW ASSOCIATION OF THE UNITED STATES AT MEETING FRIDAY ATTENDED BY FIFTY LEADING MARITIME LAWYERS PASSED UNANIMOUSLY FOLLOWING RESOLUTION RESOLVED THAT IN JUDGMENT OF THIS ASSOCIATION THIS BILL IS UNCONSTITUTIONAL THAT CONGRESS CANNOT LAWFULLY EXTEND STATE COMPENSATION LAWS TO INJURIES TO LONGSHOREMEN OCCURRING ON BOARD SHIP AND THAT BY MAKING A SECOND ATTEMPT TO AMEND JUDICIAL CODE TO EXTEND STATE REMEDIES CONGRESS WOULD ONLY CONTINUE THE EXISTING UNCERTAIN AND UNSATISFACTORY STATUS OF THE RIGHTS OF THE WORKERS AND OF SHIPOWNERS STOP OUR OPINION CONGRESS SHOULD PASS FEDERAL COMPENSATION ACT COVERING LONGSHOREMEN ENGAGED IN INTERSTATE COMMERCE AND ACCIDENTS TO OTHER MARITIME WORKERS WHEN OCCURRING ON BOARD SHIP LEAVING LATTER CLASS EMPLOYEES TO STATE REMEDIES WHEN INJURED ON SHORE THIS IS ONLY SURE GROUND CONGRESS SHOULD RECOGNIZE IT NOW SECURING STATUS OF WORKERS AND SHIPOWNERS RATHER THAN LEAVE THESE RIGHTS UNSETTLED FOR TWO YEARS PENDING SUPREME COURTS FURTHER DECISION WHICH IN OUR JUDGMENT MUST FOLLOW KNICKERBOCKER PRECEDENT STOP ASSOCIATION THEREFORE URGES YOU RESUBMIT BILL TO COMMITTEE WITH RECOMMENDATION FOR FEDERAL BILL.

HAROLD S. DEMING,
Secretary.