

**MINUTES OF THE USUAL WINTER MEETING OF THE
MARITIME LAW ASSOCIATION OF THE UNITED
STATES, HELD AT THE ASSOCIATION OF
THE BAR, 42 WEST 44th STREET, FEB-
RUARY 6, 1925, AT 8 P. M.**

The usual winter meeting of the Maritime Law Association of the United States was held at the Association of the Bar of the City of New York, February 6, 1925, at 8 P. M.

Those present at the meeting were the President, Honorable Charles M. Hough, the Secretary, Harold S. Deming, and the following members:

Ray Rood Allen	George De Forest Lord
Horace T. Atkins	Mark W. Maclay
Frank A. Bernero	Carleton L. Marsh
George W. Betts, Jr.	Leonard J. Matteson
George S. Brengle	Hon. Julius M. Mayer
Ralph W. Brown	Karl S. Mayhew
C. C. Burlingham	George V. M. McCloskey
Charles Burlingham	P. F. R. McEntegart
Addison C. Burnham	Louis Millsaps
Ira A. Campbell	Russell T. Mount
John Tilney Carpenter	Edwin S. Murphy
Horace L. Cheyney	Emory H. Niles
John W. Crandall	Courtland Palmer
Morris Cooper, Jr.	F. Herbert Prem
Victor W. Cutting	Wharton Poor
William J. Dean	William F. Purdy
Morris Douw Ferris	Hon. Harrington Putnam
Ezra G. Benedict Fox	Walter Schaffner
Hon. Edwin L. Garvin	Forrest E. Single
Albert T. Gould	G. Noyes Slayton
Horace M. Gray	George C. Sprague
William B. Gray, Jr.	Carl G. Stearns
John W. Griffin	Hon. Van Vechten Veeder
Lee C. Hinslea	Hon. Henry G. Ward
Roscoe M. Hupper	Carver W. Wolfe
Robert S. Hume	William H. Woolley
James W. Jackson	John M. Woolsey
Cletus Keating	Austin T. Wright
Arnold W. Knauth	Charles E. Wyeth

The reading of the minutes of the preceding meeting was omitted by unanimous consent.

The Treasurer read an ad interim report.

The following new members were duly nominated and elected at the meeting:

Associate Members

Honorable Oliver B. Dickinson, U. S. District Judge, Eastern District of Pennsylvania.

Honorable Charles L. McKeehan, U. S. District Judge, Eastern District of Pennsylvania.

Honorable Thomas D. Thacher, U. S. District Judge, Southern District of New York.

Harry Pillans, of Mobile.

Active Members

Joseph A. Barrett

Golden W. Bell

Arthur W. Clement

William E. Collins

Carl V. Essery

John L. Galey

Henry T. Hale

George F. Hickey

Lee C. Hinslea

George W. R. Hughes

Alexander R. Lawton, Jr.

Richard F. Lenahan

Everett Masten

Honorable Julius M. Mayer

Arthur E. Muller

F. Herbert Prem

William J. Rapp

Reuben Ragland

T. K. Schmuck

G. Noyes Slayton

Paul Speer

Rush Taggart

Mr. Harry Pillans, transferred from the active to the associate list at this meeting, was one of the original charter members of the Association. The Secretary had received a tender of his resignation but it was the sense of the meeting that, in view of his long connection with the work of the Association, he should be elected an associate member, and requested to accept such election.

The following resignations were received and accepted:

Harold V. Amberg,

Henry E. Mattison,

Alfred Gilbert Smith.

A report of the proceedings of the Committee on Amendment to Vessel Documentation and Conveyancing Laws and the Ship Mortgage Act of 1920 was read by the Secretary, Mr. Niles. The report will be found annexed to these minutes (Appendix I, p. 1274).

Mr. Niles also read Bill H. R. 11884, referred to in his report as the Emergency Bill, providing for the fixing of the home port of a vessel by its owner, subject to the approval of the Commissioner of Navigation. This bill will be found annexed to these minutes (Appendix II, p. 1277).

Upon motion of Mr. Woolsey, seconded by Judge Veeder, it was:

RESOLVED: That the Secretary of the Association is authorized to arrange with the editors of American Maritime Cases to print in an issue of American Maritime Cases the draft of the proposed bill submitted by the Committee on Documentation with the Committee's comments thereon, as the report of the Committee, with separate copies to be printed and sent to all members of the Association who are not subscribers to American Maritime Cases.

The President next reported upon the present status of the efforts to secure the passage through Congress of a bill enacting into law the so-called Hague Rules. He stated that these rules, in the form in which they emerged from the labors of the sub-commission in 1923, had been proposed as an act of Congress. Meantime the British Parliament had, with slight changes, enacted them into law, operative beginning January 1, 1925. Various members of the Association and others, under the leadership of Mr. Haight, had been laboring with Mr. Edmonds, Chairman of the Committee having charge of the matter in the House of Representatives, to push through a bill that was substantially a replica of the British law. It was impossible to state whether this could be accomplished before March 4th; but it was hoped that there would at least be a favorable report of the present Committee on the record as an assistance to future accomplishment. The President stated that

that (the same) at 6 Dec 610

those working upon the situation believed, in conformity with previous votes of the Association, that the rules for carriage of goods by sea should certainly be uniform, at least as between Great Britain and the United States. Great delay had been caused by inaction or at least unwillingness to go forward on the part of the State Department. All the material collected by the sub-commission had been for a very long time in the possession of the State Department. Every Congressman of course knew that the State Department had this material, including the comments of the Department of Commerce upon it; and consequently it was almost impossible to make Congress move so long as the State Department kept silent. But within three weeks the matter had finally reached the personal attention of Secretary Hughes and he had recommended to Mr. Edmonds that the bill be passed. Efforts looking towards its passage were being continued against the vigorous opposition of a very few shippers and one insurer. Practically all the commercial organizations were in favor of it, as well as the State Department.

Mr. Campbell added that the House Committee had had the matter under consideration within the last few days and had referred it to a sub-committee. Mr. Knauth stated that the British act had now been adopted by Australia and would soon be up for adoption in New Zealand and Canada. The President pointed out that inasmuch as its passage in England had been largely due to pressure from her colonies, there could be small doubt of its prompt passage in the colonies.

The President next presented to the meeting a circular of the International Law Association upon the question of limitation of liability of ship repairers. This circular will be found annexed to these minutes (Appendix III, p. 1279). The President pointed out that this question would be up before the next meeting of the International Maritime Committee and requested authority to appoint a committee of five to investigate the problem and report to the Association. Mr. Betts spoke upon the importance of the question in view of situations such as those presented in the recent Fletcher fire, and moved for the appointment of such a committee to report to the annual meeting in May. This motion was duly seconded and carried.

The President thereupon appointed the following: John W. Griffin, Chairman; Herbert F. Eggert, J. M. R. Lyeth, Albert D. Gould and A. B. A. Bradley.

The President stated that the next international gathering would be at Genoa in September, 1925, and that at this meeting there would be actively pushed the propaganda for compulsory insurance of passengers, concerning which Mr. Englar had reported in connection with the Gothenburg conference. The President requested that any members of the Association traveling in Europe at that time communicate with him with a view to representing the Association at the meeting in Genoa.

The President then called upon Mr. Betts to make a report upon the proceedings of the Committee having in charge the amendment to the Suits in Admiralty Act. Mr. Betts reported that on May 21, 1924, the Committee had secured a hearing before the House Committee on the Judiciary, which was attended on behalf of the Association by Judge Hough, Mr. T. L. Bailey, Mr. G. W. Betts, Mr. Pierre Brown, Mr. Roger Englar, Mr. C. E. Hickox, Mr. L. J. Matteson, Mr. Eugene Underwood and Mr. Robert W. Williams. There were also present on behalf of the bill Mr. R. C. Fulbright, Chairman of the Legislative Committee of the National Industrial Traffic League, Mr. Myrick, head of the Marine Department of the United States Chamber of Commerce, and Mr. Edward H. Duff of the American Steamship Owners Association. Mr. Boal, of counsel for the Shipping Board, was also present.

He stated that there had been nobody present at the hearing from the office of the Attorney General and that the House Committee had seemed favorable, but that opposition had subsequently developed from the office of the Attorney General. Mr. Boal, on behalf of the Shipping Board, had made certain objections which Mr. Graham, the Chairman of the Committee, had requested Mr. Boal to submit in writing in order that the Association could make appropriate reply. This was done, and the Association filed a written memorandum. Mr. Boal wished the act amended to include suits against Government-owned corporations. To this the Association had no objection. Mr. Boal also desired that all suits upon *in rem* principles should be lim-

ited to vessels owned by the United States at the time of suit; and that where the suit was upon both *in rem* and *in personam* principles, these should be separately pleaded, requiring a restatement of the facts. To these changes the Association objected. The Association also objected vigorously to Mr. Boal's suggestion that where the suit was brought *in personam* and the libellant was not in the United States, suit should be in the Supreme Court of the District of Columbia. The Association also objected to Mr. Boal's suggestion that *in personam* suits must be brought in the district where the party had his residence or principal (as distinguished from any) place of business. The Association objected particularly to Mr. Boal's suggestion that where suits were brought on *in rem* principles the United States might at any stage file a suggestion waiving immunity, and that then suit could proceed only against the vessel or her cargo. This would obviously work a heavy injustice in cases where the *res* had depreciated since the inception of the cause of action. The Association also objected to the Shipping Board's desire that all remedies should be exclusive under the act.

Beginning with the opening of the present Congress, the Committee got in touch with Mr. Graham, who then for the first time reported that the Attorney General had filed written objections, and stated that he thought there was no chance at this session. It was noted that the Attorney General's letter is dated May 20th, the day before the hearing held in May, but apparently was not seen by Mr. Graham until December. The Attorney General's letter took general exception to any bill making the Government responsible for the torts of its agents, seeking to draw an analogy between the matters covered by the bill and damages done by mail trucks, etc.

The Committee has also been following the so-called Underhill Bill, H. R. 6989, and with the assistance of other members of the Association has succeeded in having it amended so as to be operative from April 6, 1917, instead of 1920, thus including the years when many important cases which would come under it originated. The Committee also secured its amendment so as to cover all damages by public vessels, it having originally been limited to collision damages. The Under-

hill Bill has been passed by the House, but has so far not been passed in the Senate, due, it is believed, to an objection by Senator Smoot to bringing it up under the unanimous consent rule.

Mr. Griffin stated at this point that within the last day or two Senator Bayard, who has the bill in charge, had spoken to Senator Smoot, who now expected that it would be passed.

Returning to a discussion of the Association's Suits in Admiralty Bill, Mr. Betts stated that it was now perfectly clear that it could not be passed at this session, that it would therefore be necessary to reintroduce it at the forthcoming session and to continue to press for its passage.

The Underhill Bill, referred to above, is in conference and subject to amendment, hence it is not printed at this time.

The President particularly thanked Mr. Betts on behalf of the Association for his untiring labors in behalf of this much-needed legislation.

Mr. Griffin reported that the bill amending the Judicial Code, Section 128, to provide for appeals from interlocutory decrees of liability, had passed both Houses and been signed by the President. A copy of this law as enacted is annexed to these minutes (Appendix IV, p. 1285).

Upon motion of Mr. Woolsey, it was:

RESOLVED: That the present Committee on Documentation of Vessels be continued for the purpose of considering and acting upon any suggestions which may be received by the Committee of corrections or changes in the draft of the proposed bill submitted by it and of reporting back to the Association with the Committee's recommendations thereon.

Upon motion of Mr. Ferris, the President extended to Mr. Burnham the special thanks of the Association for his continued and effective work in connection with Judge Rose's Committee on Vessel Documentation.

Judge Garvin, Mr. Betts and Mr. Hupper then spoke upon the proceedings at a recent luncheon of the Arbitration Society of America. Mr. Betts pointed out that a Federal arbitration

bill applying to interstate matters had already passed both Houses. He commented upon the fact that no appeal from an arbitration was permissible under the provisions of this bill. Mr. Hupper commented upon the suggestion of Mr. Grossman of the Arbitration Society of America that the Interstate Commerce Commission should insert an arbitration clause in its standard bills of lading. He pointed out that this would probably violate the ruling forbidding the Commission to deal with the method of the collection of claims, and also commented upon the great variety of difficulties which would be caused by inserting the clause in international bills of lading. He stated that Mr. Redfield of the International Law Association already had a committee working upon this problem. It was particularly emphasized by the speakers that Mr. Grossman and others were in favor of applying the principle of non-appealable arbitration universally; that this idea was gaining ground rapidly among business men; and that it was of great importance to the maritime bar that the extension of this movement to maritime affairs should be kept within workable limits.

Upon motion of Mr. Woolsey, it was resolved that the President be authorized to appoint a committee of five members to investigate generally the subject of laws extending the principle of non-appealable arbitration, particularly in relation to maritime affairs; and to take appropriate steps with a view to bringing the Federal and State laws upon this question into general conformity with the English practice—under which the arbitrator is compelled to state a case, with findings of fact and conclusions of law, which can be appealed to the court—thus enabling courts to rule upon questions of law and maintain a consistent body of maritime law.

The President thereupon appointed the following members: John M. Woolsey, Chairman; T. Catesby Jones, John W. Oast, James A. Hatch and Leslie W. Krusen.

Mr. Courtland Palmer then spoke upon the proposed Federal Maritime Workmen's Compensation Law, which had been prepared by the Joint Insurance Committee of a group of boat-owners' associations. He moved that a committee of three be appointed to consider the whole question and to draft a bill

along the lines laid out in the project for a law as already drafted by the Insurance Committee. This motion was carried and the Chair thereupon appointed the following members: Arthur M. Boal, Chairman; Fitz Henry Smith and Courtland Palmer.

The project for the foregoing law will be distributed with these minutes.

There being no further business to come before the meeting, on motion duly made and seconded, the meeting was adjourned.

HAROLD S. DEMING,
Secretary.

APPENDIX I.**REPORT OF COMMITTEE ON DOCUMENTATION
OF VESSELS.**

February 6, 1925.

Your Committee begs to report that since its report made on May 2, 1924, it has held meetings in New York, Baltimore and Washington, and has conferred with officials of the Department of Commerce and the Shipping Board with a view to proposing legislation which would have the approval of those bodies as well as of the Maritime Law Association.

In the fall of 1924, the Committee was engaged in considering a Draft Act prepared by Mr. Burnham, which Act was intended to cover the whole situation and to be a complete revision not only of the law of documentation but also to clear up certain points of difficulty which had arisen in connection with the Ship Mortgage Act. A draft dated December 22, 1924, was considered by the Committee in a meeting held in Baltimore and was then revised in accordance with the views of the Committee, the second draft being dated January 1, 1925.

Thereafter it appeared that by reason of the fact that the present Congress will adjourn on March fourth, it will be impossible to obtain the passage of a comprehensive bill. It was necessary therefore to abandon hope of obtaining any action at this Session or else to content ourselves with an emergency bill designed to remedy only the situation arising from the confusion in the law as to the location of the home port, and the defining of the home port as the place for recording documents, rather than any port of temporary documentation, and the validation of existing documents based on erroneous home ports and mortgages incidental thereto.

Several drafts of laws were prepared by the Committee, the Shipping Board, the Department of Commerce and others. On January twenty-first, Mr. Edmunds introduced in the

House of Representatives a Bill No. H. R. 11817, and on January twenty-second, the Committee met in Washington to consider this Bill and recommend its passage to the House Committee on Merchant Marine and Fisheries. The Committee was unable to agree at that time that H. R. 11817 was a proper measure to be passed and after a meeting with representatives of the Shipping Board and the Department of Commerce, agreed upon certain amendments which were embodied in H. R. 11884, the terms of which met with the approval of all parties.

On January 24, 1925, representatives of the Committee again brought before the House Committee on Merchant Marine & Fisheries Bill No. H. R. 11884, and urged its passage as an emergency bill. The House Committee acted upon the recommendation and reported the Bill favorably. Since this action of the House Committee upon the Bill Mr. Edmunds, Chairman of the Committee on Merchant Marine & Fisheries of the House of Representatives and Senator Jones of the Committee on Commerce of the Senate have expressed their intention of using their utmost efforts to obtain the passage of the Bill at this Session and their hopes that these efforts would prove successful.

The net result of the Bill proposed if it is enacted into law will be to give every ship owner the right of choosing the home port of vessels owned by him, subject only to the approval of the Commissioner of Navigation. Under the new Bill the home port will also be definitely fixed and all documentations which were invalid by reason of an erroneous designation of home port have been validated, subject only to vested rights which have accrued.

The Committee feels that its labors have by no means been completed. A new draft of the comprehensive Act dated Feb. 1, 1925 has been prepared, and after it has been considered by the Association and the various interests concerned, will be introduced into the next Congress. It is felt, however, that a long step in advance has been taken by the favorable action upon the emergency bill (H. R. 11884), and

that by this Bill the most troublesome uncertainty of the present law has been removed.

The Committee asks the authority of the Association to print and distribute to the members the draft of the comprehensive bill dated Feb. 1, 1925 and H. R. 11884 and a memorandum of comment thereon.

The Committee also desires an expression from the Association with reference to its pleasure as to the continuance of the Committee for the purpose of considering and acting upon any suggestions of members or other persons interested as to changes in the draft as prepared by the Committee.

A copy of H. R. 11884 is hereto annexed and a copy of the draft of the comprehensive bill dated Feb. 1, 1925 will be filed with the Secretary of the Association.

EMORY H. NILES,
Secretary.

APPENDIX II.

68th Congress

2d Session

H. R. 11884

IN THE HOUSE OF REPRESENTATIVES

JANUARY 23, 1925

Mr. Edmonds introduced the following bill; which was referred to the Committee on the Merchant Marine and Fisheries and ordered to be printed

A BILL

To establish home ports of vessels of the United States, to validate documents relating to such vessels, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purposes of the navigation laws of the United States and of the Ship Mortgage Act, 1920, otherwise known as section 30 of the Merchant Marine Act, 1920, every vessel of the United States shall have a "home port" in the United States, including Alaska, Hawaii, and Porto Rico, which port the owner of such vessel, subject to the approval of the Commissioner of Navigation of the Department of Commerce, shall specifically fix and determine, and subject to such approval may from time to time change. Such home port shall be shown in the register, enrollment and license, or license of such vessel, which documents, respectively, are hereinafter referred to as the vessel's document. The home port shown in the document of any vessel of the United States in force at the time of the approval of this Act shall be deemed to have been fixed and determined in accordance with the provisions hereof. Section 4141 of the Revised Statutes is hereby amended to conform herewith.

SEC. 2. No bill of sale, conveyance, mortgage, assignment of mortgage, or hypothecation (except bottomry), which includes a vessel of the United States or any portion thereof shall be valid in respect to such vessel against any person other than the grantor or mortgagor, his heirs or devisees, and any person having actual notice thereof, until such bill of sale, conveyance, mortgage, assignment of mortgage, or hypothecation is recorded in the office of the collector of customs at the home port of such vessel. Any bill of sale or conveyance of the whole or any part of a vessel shall be recorded at the home port of such vessel as shown in her new document.

SEC. 3. All conveyances and mortgages of any vessel or any part thereof, and all documentations, recordations, indorsements, and indexing thereof, and proceedings incidental thereto heretofore made or done, are hereby declared valid to the extent they would have been valid if the port or ports at which said vessel has in fact been documented from time to time had been the port or ports at which it should have been documented in accordance with law; and this section is hereby declared retroactive so as to accomplish such validation: *Provided*, That nothing herein contained shall be construed to deprive any person of any vested right.

SEC. 4. Wherever in the Ship Mortgage Act, 1920, otherwise known as section 30 of the Merchant Marine Act, 1920, the words "port of documentation" are used they shall be deemed to mean the "home port" of the vessel, except that the words "port of documentation" shall not include a port in which a temporary document is issued.

SEC. 5. All such provisions of the Navigation Laws of the United States and of the Ship Mortgage Act, 1920, otherwise known as section 30 of the Merchant Marine Act, 1920, as are in conflict with this Act are hereby amended to conform herewith.

(Passed by both Senate and House of Representatives on February 14, 1925; now before the President.)

APPENDIX III.

INTERNATIONAL LAW ASSOCIATION.

STOCKHOLM CONFERENCE, 1924.

LIMITATION OF LIABILITY OF SHIPREPAIRERS.

The following RESOLUTION—

That in view of the limitation of liability which is granted to shipowners, and which it is proposed to regulate internationally by a Convention between the principal maritime states, and the extension of such limitation to lighter and barge owners, charterers, shipbuilders and dock owners and harbour authorities, and in view of the similarity of conditions of work and liabilities of shipowners, shipbuilders and shiprepairers, this Conference is of opinion that shiprepairers should enjoy a similar protection by way of limitation of their liabilities.

Will be Moved by

THOMAS BIGGART, of Glasgow, and

Seconded by

W. R. BISSCHOP, LL.D., of London.

In the Shipping Industry the principle of Limitation of Liability has long been recognised by maritime nations.

The benefit of Limitation was originally confined to the Owners of a ship. It has been extended gradually to those who carry on other branches of the Industry.

Shiprepairing, however—although an essential branch of the Industry—has not up till now had the principle of Limitation of Liability extended to it.

It is submitted that this should be remedied: it is indeed past due. In presenting the case for remedy, the position as

from the standpoint of British Law, will be dealt with first, for the sake of clearness.

The earliest provision of the British Legislature was in a Statute passed in the year 1734. It limited the liability of a Shipowner where there had been loss by embezzlement by the master or crew. Since then the Shipowners' relief has been extended to cover numerous other classes of loss or damage.

The present position of the British Law may be briefly summarised, as follows:—

SHIPOWNERS.

No Liability to any extent—

For damage to or loss of goods by fire;

For damage to or loss of bullion, etc., by robbery or theft, unless declared at the time of shipment.

Liability Limited—

For loss of life or personal injury to any person on the owner's ship;

For loss of life or personal injury to any person on another vessel if due to improper navigation of the owner's ship;

For damage to or loss of goods on the owner's ship;

For damage to or loss of another vessel or goods thereon, if due to improper navigation of the owner's ship;

—(*British Merchant Shipping Acts, 1894 and 1906*).

For any loss or damage caused to property or rights of any kind on land or water, fixed or moveable, by reason of the improper navigation or management of a ship.

—(*British Merchant Shipping Act, 1900*).

The foregoing reliefs are granted subject to the loss or damage occurring without the owner's actual fault or privity. The measure of limitation is £8 per ton in the case of property damage, and is increased to £15 per ton where there has been loss of life or personal injury.

LIGHTER AND BARGE OWNERS, including HIRERS of such Craft;
 CHARTERERS to whom the Ship has been demised;
 SHIPBUILDERS and other PARTIES interested.

The shipowner's limitation of liability has been extended to these three classes.

—(*British Merchant Shipping Acts, 1898, 1906, and 1921*).

DOCK OWNERS AND HARBOUR AUTHORITIES.

Liability is limited to £8 per ton, on a special basis, for any loss or damage caused to any vessel or any goods thereon.

“Dock” includes a dry dock, slip, etc.

—(*British Merchant Shipping Act, 1900*).

A continuous extension of the Limitation of Liability in the Shipping Industry is here seen from the period when the necessity for limitation was first experienced until the present time. The extensions largely followed on decisions of the Law Courts, statutory relief being given upon heavy responsibility being revealed.

Internationally this matter has been considered at various Diplomatic Conferences held at Brussels. It was finally regulated in a Draft Convention which was agreed to in a Conference held in Brussels on 17th-26th October, 1922, and confirmed at a Conference held in October, 1923, whereby the various maritime States adopted internationally the British system of limitation of shipowners' liability.

Thus far, as already pointed out, limitation of liability has not been extended to Shiprepairers, although recent years have revealed a responsibility and a risk of great magnitude.

The risk of fire and of loss or damage through other causes, during repair operations, has been increasing greatly, owing to the development of the industry. Equally great has been the increase in the value of vessels and their equipment, and as a consequence in the amount of damage and loss which may be

sustained. As examples of these changes, one need only mention the immense passenger liners, insulated ships, oil carrying and oil burning ships, ships designed for special trades, and such like now so numerous.

The first serious case to bring home the changed conditions under which the Shiprepairing industry has now to be carried on was that of the s.s. "City of Edinburgh." A considerable number of heavy losses have fallen since upon shiprepairers.

A list of the more serious of them is here given.

DATE.	SHIP.	LOSS.
June, 1918,	s.s. "City of Edinburgh,"	£130,000
October, 1921,	s.s. "Shropshire,"	£300,000
January, 1920,	s.s. "St. Louis,"	\$2,000,000
— 1922,	s.s. "Santa Marta,"	\$960,000
May, 1923,	s.s. "Ruapehu,"	A large loss: amount not yet known.

A few remarks on the circumstances of these occurrences will be instructive.

S.S. "City of Edinburgh."—The cost of the repair amounted to a few hundred pounds only. A workman, carrying a red-hot rivet, slipped on deck. The rivet fell down an open hatchway and set fire to the cargo. The House of Lords held the repairers liable.

S.S. "Shropshire."—The work involved in the repairers' contract did not exceed £4,000. A fire broke out in an insulation air trunk. It spread rapidly throughout the insulated holds and did great damage. The ship was valued about £160,000, and the repairers were held liable ultimately in damages exceeding £300,000, equivalent to £25 per ton.

S.S. "St. Louis."—A fire occurred which involved and practically destroyed the whole ship. In proceedings for relief against the Shiprepairing Company which was carrying out the overhaul and repairs, judgment was given against the repairers. The loss was such that it ruined a large and old-established repairing company.

S.S. "*Ruapehu*."—This case is at present *sub judice*. If the repairers are ultimately found liable they may be faced with a loss of over £16 per ton.

The foregoing examples of actual losses show the great risk and responsibility under which shiprepairers carry on work. Their anomalous position, as contrasted with that of the shipowner, is still more marked, when it is kept in view that the shipowner's liability is measured by the tonnage of the particular vessel involved. The shiprepairer's liability is unaffected by the extent of the repair to be done. The repair required may be a trifling one, and yet may have to be carried out under conditions of great risk and grave responsibility.

This is well illustrated by the following instance which is not an assumed case, but one which actually occurred:—

After working hours, a shiprepairing firm were asked to send a few men to do an urgent repair. One or two rivets amidship required attention. The vessel was a large one, filled with cargo, and with over 1,000 passengers on board. To get at the work involved, the workmen had to carry red-hot rivets through a passage in the cargo cleared by the ship's men. The work was successfully accomplished and the ship had sailed before the repairers' establishment was open for work on the following day. The risk here is apparent to everyone, as also the grave liability for loss and damage had any mishap occurred.

A job of this kind must be done. It is not just that a repairer who carries it out, and whose interest is measured by an account of a few pounds, should be exposed to unlimited risk and responsibility.

The position of shiprepairers and of owners or charterers is at times similar as regards the work performed, but entirely dissimilar as regards liability. For example, a shipowner places a contract for the repair of a ship on condition that the repairer will take possession of the vessel where she then lies—

which may be at a great distance from the repairer's premises, and may even be in another country—and transport her to the repairer's establishment. After repair he may require to re-deliver the vessel at the port where she originally lay or at some other port. The shiprepairer in such a case has to find a crew and navigate the ship. He is responsible for all the risks of a shipowner, but unlike the shipowner, his liability is unlimited.

Special enquiry has been made in Denmark, The Netherlands, Norway, Sweden, Spain, Belgium, France, and Germany, as to whether in these countries there is limitation of liability in the case of shiprepairers. It is found that in none of them is there any limitation.

In the foregoing it has been shown that while from the time a vessel is launched until she is finally taken off the register, the shipbuilders, shipowners, charterers, wet and dry dock owners, harbour authorities, and others, all have some measure of limitation of their liability for loss or damage, the shiprepairers, who are as closely related to the shipping industry, and as much part of it as any of those named, are in the anomalous position that there is no limitation of their liability. In the case of these other named interests, as the risks they ran disclosed themselves, statutory relief was given to them by way of limitation of their liability. An equally strong, if not stronger case for relief, it is submitted has been made out on behalf of shiprepairers.

APPENDIX IV.

ACT PERMITTING APPEALS FROM INTERLOCUTORY
DECREES IN ADMIRALTY.

The following act, introduced by Mr. Bacon on May 10, 1924, as H. R. 9162, having previously passed the House of Representatives, was passed by the Senate on Jan. 31, 1925.

AN ACT

To amend section 128 of the Judicial Code, relating to appeals in admiralty cases.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That section 128 of the Judicial Code is hereby amended by adding thereto the following:

“In all cases where an appeal from a final decree in admiralty to the circuit court of appeals is allowed by this section, an appeal may also be taken to said court from an interlocutory decree in admiralty determining the rights and liabilities of the parties: *Provided*, That the same is taken within fifteen days after the entry and service of a copy of such decree upon the adverse party; but the taking of such appeal shall not stay proceedings under the interlocutory decree unless otherwise ordered by the district court upon such terms as shall seem just.”