

THE MARITIME LAW ASSOCIATION OF THE UNITED STATES

The thirty-third annual meeting of the Association was held at the House of the Association of the Bar in the City of New York, Friday, May 13, 1932, at 8:30 p.m.

Present were Hon. VanVechten Veeder, who presided, the Secretary, Arnold W. Knauth, and fifty-one members:

John M. Aherne, Earl Appleman, Edward Ash, George W. Betts, Jr., George S. Brengle, Ralph W. Brown, Ira A. Campbell, Henry E. Chapin, Horace L. Cheyney, Frederic Conger, John W. Crandall, Ward R. Cunningham, Martin Detels, John C. Donovan, Robert S. Erskine, Ezra G. Benedict Fox, Albert T. Gould, John W. Griffin, Charles W. Hagen, Charles Hann, Jr., James A. Hatch, Robert E. Hill, T. Catesby Jones, W. Hastings Jones, Henry N. Longley, Anthony V. Lynch, John A. Lyon, Karl S. Mayhew, George V. A. McCloskey, P. J. R. McEntegart, William H. McGrann, Arthur E. Muller, A. Howard Neely, Emory H. Niles, Edward F. Platow, Wharton Poor, John C. Prizer, Joseph M. Rault, Gregory S. Rivkins, Miss Elizabeth Robinson, E. Curtis Rouse, Leon T. Seawell, John N. Senecal, Paul Speer, George C. Sprague, J. Frank Staley, Herbert K. Stockton, George R. Wagner, Carver W. Wolfe, Stanley R. Wright, John W. R. Zisgen.

The reading of the minutes of the previous annual meeting was dispensed with.

The annual reports of the Secretary and Treasurer were read and ordered on file, and are printed herewith.

ELECTION OF MEMBERS

Associate Members

On motion duly made and seconded, the following Federal judges were elected:

HONORABLE JOHN J. PARKER, Senior Circuit Judge, U. S. Circuit Court of Appeals, Fourth Circuit, Charlotte, N. C.
Proposed by Mr. Skeen.

HONORABLE T. M. KENNERLY, U. S. District Judge, Southern District of Texas, Houston, Texas. Proposed by Mr. Stearns.

Active Members

The President stated that 10 nominations for active membership had been received and recommended by the Executive Committee, all of the gentlemen proposed being members of the Bar except one, who is a member of the Insurance Staff of the Shipping Board in Washington.

On motion duly made and seconded the persons recommended by the Executive Committee were thereupon elected as follows:

LAWRENCE BOGLE, Bogle, Bogle & Gates, Central Building, Seattle, Washington. Proposed by Mr. Knauth.

EDWARD G. DOBRIN, Bogle, Bogle & Gates, Central Building, Seattle, Washington. Proposed by Mr. Knauth.

HENRY C. EDENBACH, Park, Lynch & Hagen, 79 Wall Street, New York City. Proposed by Mr. Hagen.

SELIM LEMLE, Lemle, Moreno & Lemle, Hibernia Bank Bldg., New Orleans. Proposed by Commander McGrann.

WILLIAM E. MASTERSON, Dean, Idaho Law School, Moscow, Idaho. Proposed by Mr. Deming.

JOHN C. MCHOSE, Young, Lillick, Olson, Graham & Kelly, Rowan Building, Los Angeles, Cal. Proposed by Mr. Lillick of San Francisco.

O. H. M. MCPHERSON, U. S. Shipping Board, Washington, D. C. Proposed by Mr. Lacques.

JOHN E. PURDY, Purdy & Purdy, 80 Broad Street, New York City. Proposed by Mr. Mason.

CYRIL S. STANLEY, Colahan & Stanley, 20 Exchange Place, New York City. Proposed by Mr. Foley.

JAMES HENRY WILLOCK, Miami, Fla. Proposed by Mr. Van Wyck.

PROPOSED INTERNATIONAL CONVENTIONS ON CIVIL AND
PENAL JURISDICTION OF COLLISIONS

Mr. McGrann, Chairman of the special committee appointed by the President to consider the letter sent out by the Permanent Bureau of the Comité Internationale Maritime dated 8th December, 1931, presented a report which had been printed and distributed in advance of the meeting as Document No. 179. The committee did not deal with Penal Jurisdiction, since the 1931 questions did not pertain to penal law, and the subject had been adequately covered by our Association in 1930.

As to Civil Jurisdiction, the committee was entirely opposed to any fundamental departure from the time-honored principles of American law, and found itself today in entire accord with the conclusions reached by Mr. Benedict's committee on the same subject 30 years ago. As to the statement of what our law is, the Committee had found little difficulty in expressing its views unanimously, except as to the right to re-arrest or re-attach a vessel in the United States after an arrest or an attachment abroad (p. 1889), as to which there was some divergence of opinion, since the cases did not definitely indicate what our courts would do in such a situation. It was felt, however, that the statement arrived at fairly represents the state of the law.

Mr. Jones remarked that the subject, proposed, he understood, by the Italian delegation, was not favored in Great Britain, and that continental opinion was divided.

Mr. Staley suggested that the Committee consider amending the answer to question II-a (4) so as to read:

“When a ship is owned in *equal* shares and the shareholders are unable to agree as to her employment or disposition, a sale *in admiralty* may be sought by one or more of the shareholders in order to liquidate the interests. *If the shares are unequal, a sale may be had in equity, but not in admiralty.*”

The Committee, however, did not adopt any amendments, feeling that the statements were sufficiently accurate in their original form.

Upon motion made by Mr. T. C. Jones, and seconded, the report of the Committee was adopted as expressing the views of the Association, and the Secretary was directed to transmit it to the Permanent Bureau of the Comité Internationale Maritime.

The President stated that he had been advised by cablegram that the proposed meeting of the International Maritime Committee to be held in Oslo in 1932 had been postponed, and that there would be no meeting until 1933, so that the report was in ample time.

SAFETY CONVENTION

Mr. Griffin, Chairman of a special committee consisting of Messrs. Janney (Baltimore), Huger (Charleston), and himself, appointed by the President, stated that the Safety Convention drafted and unanimously signed by the delegates of eighteen maritime nations in London in 1929, was now pending before the United

States Senate for ratification, and had been referred to a sub-committee of the Senate Committee on Foreign Affairs, Senators Borah, Vandenberg and Connally being the members of the sub-committee, which had announced its intention of holding hearings subsequent to disposing of the World Court resolution. The World Court matter having just been reported out, it was likely that the Committee would hold hearings on the Safety Convention in the near future.

The international status was that the Convention shall go into effect 3 months after 5 nations ratify. Denmark and Holland have ratified. England and Canada are withholding their ratifications, awaiting action by others. Germany, Italy and Sweden are said to be on the point of ratification. If the Convention goes into effect, American ships will have to comply with it in foreign ports where it is effective.

Rear Admiral Tawresey (retired), assistant to the Chairman of the Shipping Board, is in charge of advancing the matter on behalf of the Executive Departments interested. All of the Executive Departments concerned have either endorsed the Convention or are ready to do so. In fact there has been opposition from only one source: namely, the Seamen's Union, which objects on two grounds, the first that the Convention would reduce the requirements as to manning of vessels, and second, that it would lessen the requirements as to manning of lifeboats. The Shipping Board in December, 1931, prepared and circulated a pamphlet designed to deal with these objections, and indicating that the requirements as to manning of vessels would not be reduced, and that the requirements as to lifeboats would, in fact, be made more stringent. Mr. Griffin felt that he had not made a sufficient study of the very technical aspects of this question to express an opinion, although it appeared to him that Admiral Tawresey's views are right. His communications with Mr. Janney and Mr. Huger having been entirely by letter and telegram, he felt unable to say more. He noted that the Convention contains many general provisions, that it provided for suspending or relaxing its rules in certain situations, and that Articles 53 and 54 require the certificate of one nation to be accepted by another, subject to the right to verify the actual facts as to seaworthiness.

Answering a question put by Mr. Jones, he said that he did not understand that the international safety certificates would have any particular effect as between private parties.

The Convention itself deals with a great many technical aspects of shipbuilding and ship operation which are no concern of the

admiralty lawyer. It also revises the International Rules for the Prevention of Collisions, concerning which the Admiralty Bar has well-founded opinions. In fact, the Association had made a special report on desirable reforms in the Collision Rules for the use of the American Delegation to the 1929 Convention, (Document 153), and many of the reforms there proposed have been embodied in the Convention. The meeting of so many nations of course resulted in a compromise, and some of our suggestions, particularly (1) the reduction of the interval of fog signals from two minutes to one minute, and (2) the provision of a three-blast backing signal in fog, had not been adopted, which was regrettable. However, the revised rules are on the whole an improvement on the present rules. The two notable advances are (1) obligatory range lights, and (2) obligatory stern lights. The general classification of lights has been simplified and improved, but there is an unsatisfactory new rule that a vessel towing another need not display the regular stern light but may display only a small steering light, the size and power of which is left uncertain.

The Rules of the Road are but little changed. As to sound signals, the important changes are (1) a gong at the stern of a vessel over 300 feet long anchored in fog and (2) a 1-long 3-short blast fog signal for a vessel towed. This rule seems to apply to all tows however short, disregarding our suggestion that it only apply to tows over 600 feet long.

The Convention is not now subject to amendment, and the only question is whether it shall be accepted or rejected *in toto*. Its acceptance by several nations in due course is a practical certainty, Parliament having passed the necessary British legislation in February, 1932. Our Association could either endorse it now, without further study, or appoint a committee to report in the autumn, taking the chance that Congress might not act in the meantime. In any event, Mr. Griffin felt strongly that the occasion of the consideration of this Convention revising the International Rules should be seized to appoint separate committees in respect of the Inland Rules, Great Lakes Rules, the Mississippi, and other River Rules, etc., with a view to bringing about their revision, harmonization and modernization, either simultaneously or immediately after the adoption of the revised International Rules.

Mr. Griffin made the following motion:

“RESOLVED that this Association endorses and supports the International Convention for the Safety of Life at Sea,

signed at London, May 31, 1929, and urges prompt consent to the ratification thereof by the United States Senate; and it is

“FURTHER RESOLVED that copies of this resolution be sent by the Secretary of the Association to the Chairman of the Foreign Relations Committee of the Senate and to the members of the subcommittee to whom the Convention has been referred, and also to the Chairman of the United States Shipping Board.”

Mr. Huger by telegram endorsed this proposal. Mr. Gould seconded the resolution. Several members, including Commander McGrann, Mr. Cheyney and Mr. McCloskey, favored the appointment of a committee to consider the revisions that are contemplated, with a view to a report in the autumn. Particular attention was directed to the proposed rule concerning the ringing of a gong. Mr. McCloskey moved the appointment of a committee of seven, with instructions, among other things, to seek to revise the Inland Rules in those respects recommended by our 1929 committee.

Mr. Jones, Mr. Sprague, Mr. Campbell, Mr. Betts, Mr. Niles and Mr. Gould supported Mr. Griffin's resolution, which was carried, the amendment for the appointment of a new committee and the postponement of action being lost upon a rising vote of about three to one. The special committee consisting of Messrs. Griffin, Huger and Janney was thereupon discharged. The President subsequently appointed three special committees to consider revision of the Inland, Great Lakes and Inland River Rules.

EXTENSION OF ADMIRALTY JURISDICTION

The Secretary read the Hickox draft bill for the extension of Admiralty jurisdiction to waterside structures, with the following text:

BE IT ENACTED, In any case where a vessel in navigable waters of the United States through negligent management or navigation causes damage to land or to any property whatsoever upon or affixed to land, or any property right with respect thereto, any person who sustains damage thereby, without regard to the amount of damage or the citizenship of the parties, shall have a lien against such vessel and may proceed against the owner of said vessel in any district court of the United States having jurisdiction of the parties or against the vessel and the owner in the district where said vessel may be found, and shall have the right to attach the vessel to obtain

security. The procedure in such cases and the rules concerning damages shall be the same as those prevailing in cases of admiralty and maritime jurisdiction and the action shall be tried by a judge without a jury, unless a jury is demanded by the defendant before or when answer is filed. The remedy afforded by this act is not exclusive of any other remedy which may exist. This act shall not be held to modify or repeal sections forty-two hundred and eighty-two to forty-two hundred and eighty-six inclusive of the Revised Statutes of the United States, or any other statute defining the liability of vessels, their owners, or representatives. If any part of any provision of this act, or the application of any part of any provision to other circumstances is held invalid, the remainder of this act or of the application of any part of any provision to other circumstances shall not be affected thereby.

Mr. Sprague moved to endorse the bill and urge its passage by Congress, which received many seconds.

Mr. Griffin suggested that the bill should, in express terms, apply to the classes of vessels referred to in the Suits in Admiralty Act and the Public Vessels Act.

Mr. Brown thereupon moved an amendment approving the bill in principle, and authorizing our committee to cooperate with the American Bar Association and other bodies to bring about the introduction and enactment of any suitable text. The amendment was seconded, put and carried, whereupon the original motion was withdrawn.

The matter was accordingly reported to the standing committee of which Mr. Hupper is chairman, the other members being Mr. Lord and Mr. Lillick.

LEGAL COSTS

The bill drafted by Mr. Hickox on behalf of the American Bar Association in respect of certain legal costs in admiralty, and accepted and approved by the American Bar Association's 1931 meeting, was read:

BE IT ENACTED, That United States Code, Title 28, Section 572, be amended by adding thereto the following: "On appeals in admiralty proctor's docket fee of \$100 and the reasonable cost of the brief of the successful party."

Mr. Jones on behalf of Mr. Huger of Charleston, stated that

the American Bar Association Committee will this year consider poundage charges by the Marshal where no funds pass through the Marshal's hands, and made the following motion:

RESOLVED, that, in the opinion of this Association, poundage should not be charged where no funds pass through the hands of the U. S. Marshal, and that a committee of three be appointed to recommend such legislation or amendment of rules as may best effect this purpose.

He stated that such charges have become a source of great expense, annoyance and hardship in respect of settlements, discontinuances and bond cancellations, especially in New Orleans, Charleston and Norfolk; Mr. McCloskey added that he had found it also a hardship at Savannah. Mr. Griffin suggested a committee, to consider these matters, and also the archaic rules for bonds in double the amount claimed, and upon motion duly made and seconded, it was resolved that the President be authorized to appoint a new committee of three or more to examine the subject of legal costs in admiralty and to report concerning the possibility of reform in the respects mentioned, and in any other respects that the committee might think suitable.

AMENDMENT OF SUITS IN ADMIRALTY ACT

Mr. Betts presented the following resolution relating to the Bills referred to in Documents 177 and 178:

WHEREAS, the Federal Judges of the various District Courts and certain of the Circuit Courts of Appeals generally interpreted the remedy provided by the Suits in Admiralty Act as concurrent with others existing at the time of its enactment; and

WHEREAS, such interpretation reflects the views held by the Admiralty Bar, generally;

NOW, THEREFORE, BE IT

RESOLVED, that this Association endorses the amendment to the Suits in Admiralty Act proposed by the Bill H. R. 7238 (Congressman Free), with Committee amendments, and the similar Senate Bill (S. 2514, Senator Johnson), and that a committee of three be appointed to support the Bill with power to act with reference to any proposed amendments thereto.

The motion was duly seconded and carried.

ARBITRATION

Mr. Jones stated that his efforts to bring about appealable arbitration in admiralty matters had made such progress that a final draft bill had been agreed upon with representatives of the American Arbitration Association, and had been favorably received by the American Bar Association Committee on Commerce. The Bar Association Committee had, however, desired to have the draft bill gone over once more in conference with a sub-committee; the conference was expected to be held in the very near future. On motion duly made and seconded the Secretary was instructed to print and distribute the draft bill with any report that Mr. Jones' Committee might wish to make, as soon as Mr. Jones should wish to have this done.

SOUTHERN DISTRICT CALENDAR PRACTICE

Mr. Jones presented a resolution on behalf of Mr. Houston concerning the present calendar practice, under which all non-jury cases are placed on the same calendar. Several members spoke in support of this resolution and urged that the Admiralty Calendar should be separated from the other non-jury cases. The resolution was carried, with the following text:

RESOLVED, that, in the opinion of this Association, the trial of non-jury causes in the Southern District of New York will be expedited, and the time of witnesses and advocates conserved by the separation of the non-jury calendar into two parts, one containing all admiralty causes and the other all other causes, and that a committee of three be appointed to present the views of this Association to the Senior District Judge.

COMMISSIONERS UPON DEFAULT DECREES

Mr. Ash stated that the present practice of referring default decrees to commissioners was frequently resulting in several different commissioners being appointed in respect of the same vessel. In one recent instance he had noted that four different commissioners were appointed under six default decrees in respect of the same ship, leading to much duplication of effort, waste of proctors'

time and unnecessary expense. He moved for a committee to confer with the judges. Mr. McCloskey, in seconding, pointed out that under Rule 34 the practice permits intervention, which avoids the filing of many separate libels, which is commonly done in ports other than New York; that Judge Hough had frequently recommended a similar practice in this port. The motion was carried, and the President was authorized to appoint a committee to request the presiding judges in the Southern and Eastern Districts to consider whether means could not be found to have one commissioner appointed in respect of different libels on either side of the river against the same vessel.

AMERICAN LAW INSTITUTE RESTATEMENT OF CONFLICT OF LAWS

The President stated that he had recently attended the annual meeting of the American Law Institute in Washington, where the draft Restatement of the Conflict of Laws by Professor Beale of the Harvard Law School and his assistants was considered. The proposed restatement contains five sections on Conflict of Laws touching "maritime wrongs." The President, as well as Mr. Hickox and Mr. C. C. Burlingham, who also attended the meeting, believed that this Restatement required revision. The President was authorized to appoint a special committee to confer with Professor Beale.

MERCHANT MARINE CODE

Mr. Betts stated that the Shipping Board has begun work again on the proposed Merchant Marine Code, which was interrupted by the untimely death of Mr. Woodruff. He had recently discussed the matter with Mr. Parker, General Counsel of the Board, and his assistants, Messrs. Massey and Howe, who are bringing the Code down to date from 1929. Upon his suggestion, conferences will be held with the Department of Commerce, and the Army and Navy Departments, and the pending proposals for reorganization of various government departments may result in action concerning the Code.

ELECTION OF OFFICERS

The report of the Nominating Committee, consisting of Messrs. Haight, Hickox and Houston, was read by Mr. Betts, and the nominations being closed, the following officers were elected for the coming year:

President, VanVechten Veeder.
Secretary and Treasurer, Arnold W. Knauth.

Members of the Executive Committee:

John W. Crandall, New York.
Stuart S. Janney, Baltimore.
Ira S. Lillick, San Francisco.
Leonard J. Matteson, New York.
L. deGrove Potter, New York.
Joseph M. Rault, New Orleans.
FitzHenry Smith, Boston.
J. Frank Staley, Washington.

ARNOLD W. KNAUTH, *Secretary.*

The President subsequently appointed the following committees pursuant to the foregoing resolutions and discussions:

Inland Rules (U. S. Code, Title 33, Chapter 3, Sections 151-231): Mr. McGrann (New York), Chairman; Messrs. Griffin, Griffith, Gould, Farwell and Shortridge.

Great Lakes Rules (U. S. Code, Title 33, Chapter 4, Sections 241-293): Mr. Sherwin Hill (Detroit), Chairman; Messrs. Duncan, Hinslea and Branand.

River Rules (U. S. Code, Title 33, Chapter 5, Sections 301-351): Mr. Leovy (New Orleans), Chairman; Messrs. Lemle, Rault and Stearns.

Legal Costs: Mr. Sprague (New York), Chairman; Messrs. Young and Whip.

Amendment of Suits in Admiralty Act: Mr. Campbell (New York), Chairman; Messrs. Gidiere and Betts.

Southern District Calendar Practice and Appointment of Commissioners upon Default Decrees in Southern and Eastern Districts: Mr. Houston, Chairman; Messrs. Erskine, Ash, and Underwood.

Restatement of Conflict of Laws by American Law Institute: Mr. Chas. C. Burlingham, Chairman; Messrs. Chas. R. Hickox, Alfred Huger, George H. Terriberly, and the President, *ex-officio*.

REPORT OF THE SECRETARY

TO THE MARITIME LAW ASSOCIATION:

Arnold W. Knauth, as secretary, submits his report for the year ending April 30, 1932.

There has been only one meeting of the Association, the annual meeting, which was held on May 15, 1931. The minutes were printed and distributed to the members.

A list of members was prepared and distributed in the summer of 1931, following the usual custom of printing the membership list every other year. The names of the firms with which the members are associated were printed on this occasion, and the innovation seems to have met with general approval.

The following deaths of members have been noted during the year:

FREDERIC CUNNINGHAM, of Boston, A founder of the Association in 1899; died 1930.

LEWIS CASS LEDYARD, of New York. A founder of the Association in 1899; died January 27, 1932.

PROFESSOR W. T. WRIGHT, of the University of Pennsylvania Law School, elected 1920; died September, 1931.

GEORGE E. HARGRAVE, a partner of Messrs. Bigham, Englar, Jones & Houston, New York, elected in 1920; died in 1931.

HON. EDWARD F. PLUMMER, Commissioner of the U. S. Shipping Board. Elected an associate member in 1922; died March, 1932.

The Executive Committee dropped seven members for non-payment of dues for four years or more, after ascertaining that they did not care to continue. Five resignations were received and accepted.

A number of applications for membership were passed on by the Executive Committee in December, 1931. Including the applications pending at the present time, the membership of the Association is as follows:

| | |
|--------------------------------------|-------|
| Associate Members, without dues..... | 61 |
| Active Members..... | 336 |
| | <hr/> |
| Total | 397 |

a net decline of 7 members.

RULE 46½

A second edition of the pamphlet of District Court rules resulting from Supreme Court Admiralty Rule 46½ was prepared in August, 1931, and sent to all the members, to the Clerks of the District and Circuit Courts of Appeals, and to the Clerk of the Supreme Court of the United States.

HAGUE RULES

A pamphlet describing the present statute status of the Hague Rules in the various countries and listing the cases which have arisen under the Hague Rules as far as reported in British, Canadian and United States law reports and in M. Dor's French *Review of Comparative Maritime Law*, was prepared in 1931 and, after being submitted to various authorities, here and abroad, for revision, was printed and distributed in December, 1931.

Respectfully submitted,

ARNOLD W. KNAUTH,
Secretary.

[1918]

MARITIME LAW ASSOCIATION

Treasurer's Annual Report

RECEIPTS

| | | |
|----------------------------------|----------|------------|
| Balance on hand May 1, 1931..... | | \$1,666.22 |
| Dues received: 1929..... | \$ 10.00 | |
| 1930..... | 75.00 | |
| 1931..... | 1,350.00 | |
| 1932..... | 10.00 | \$1,445.00 |
| Interest at Savings Bank..... | 43.99 | 1,488.99 |
| | | <hr/> |
| | | \$3,155.21 |

DISBURSEMENTS

| | | |
|---|-----------|------------|
| Miscellaneous printing..... | \$ 551.50 | |
| List of members and by-laws..... | 337.50 | |
| Addressing..... | 43.09 | |
| Letterheads and envelopes..... | 38.25 | |
| Subscription to Comite Internationale Maritime..... | 250.00 | |
| Subscription to American Maritime Cases..... | 50.00 | |
| Deposit at Government Printing Office for documents..... | 10.00 | |
| Stenography and miscellaneous secretarial disbursements..... | 381.55 | |
| Customs Broker (Antwerp Reports)..... | 4.50 | |
| Binding Minutes..... | 11.25 | \$1,677.64 |
| | | <hr/> |
| Balances on hand April 30, 1932: | | |
| Central Hanover B. & T. Co..... | 414.37 | |
| Seamen's Bank for Savings..... | 1,063.20 | 1,477.57 |
| | | <hr/> |

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|----------------------------------|--|------------|
| BACK DUES POSITION, MAY 1, 1932: | | \$3,155.21 |
| 1931—72 members..... | | \$360.00 |
| 1930—24 members..... | | 120.00 |
| 1929—10 members..... | | 50.00 |
| 1928— 2 members..... | | 10.00 |
| | | <hr/> |
| | | \$540.00 |

ARNOLD W. KNAUTH, *Treasurer.*