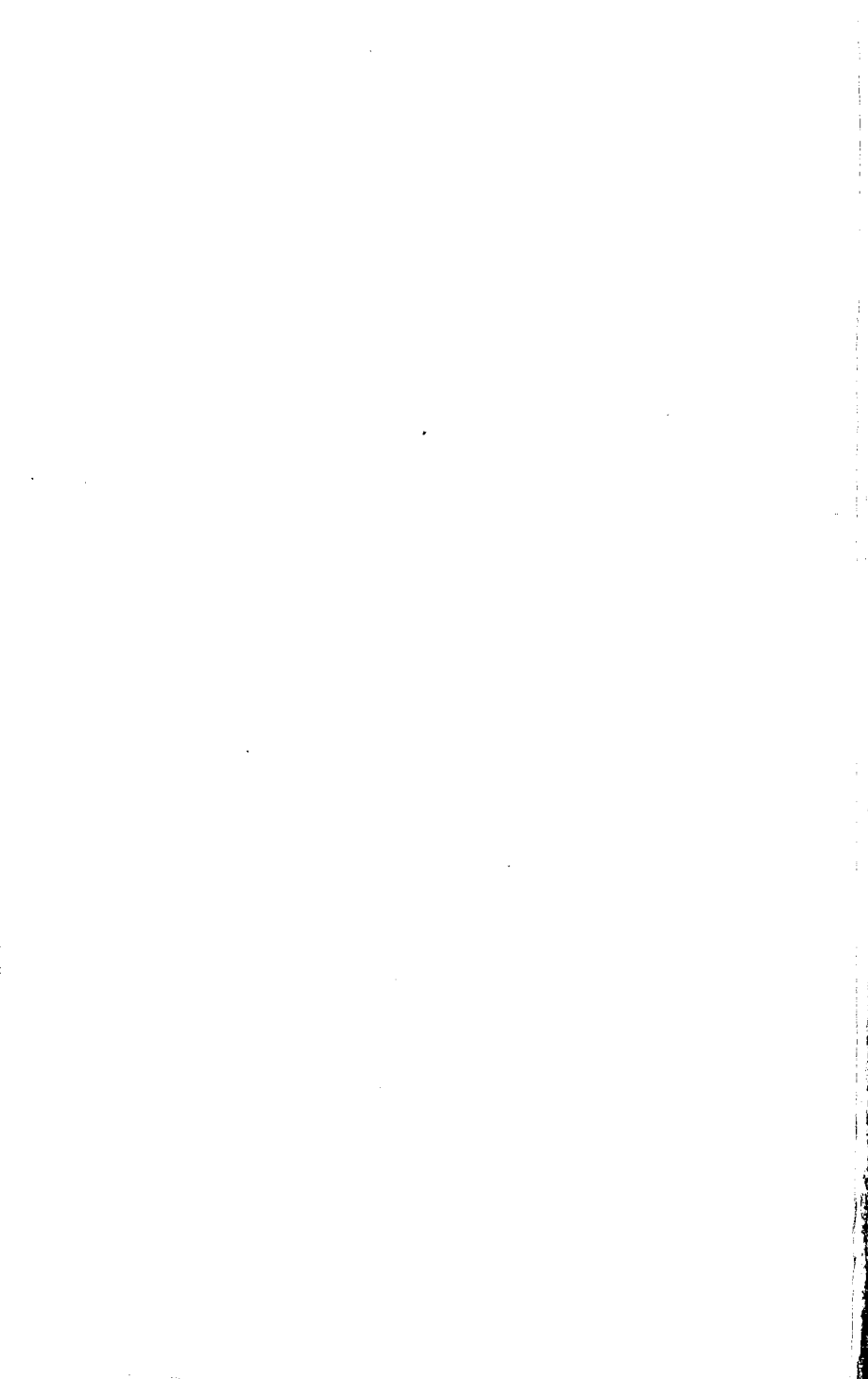


THE
MARITIME LAW ASSOCIATION
OF THE UNITED STATES

ROBERT DEWEY BENEDICT
PRESIDENT

HENRY GALBRAITH WARD
(160 BROADWAY, N. Y.)
SECRETARY

HARRINGTON PUTNAM
FREDERIC DODGE
HENRY GALBRAITH WARD
EXECUTIVE COMMITTEE



June 21st, 1899, a meeting was held at the Association of the Bar of the City of New York, No. 42 West 44th Street, for the purpose of organizing a Maritime Law Association.

There were present:

Hon. Addison Brown, Hon. William W. Goodrich, Messrs. George B. Adams, Robert D. Benedict, James E. Carpenter, E. B. Convers, Lawrence Kneeland, Harrington Putnam, Lorenzo Ullo, Henry G. Ward, Everett P. Wheeler and Franklin A. Wilcox, all of New York; and Messrs. Frederic Dodge of Boston, and Daniel H. Hayne of Baltimore.

Mr. ROBERT D. BENEDICT was elected President of the Association, and Messrs. HARRINGTON PUTNAM, FREDERIC DODGE and HENRY G. WARD were appointed the Executive Committee, together with the President *ex officio*. Mr. WARD was chosen Secretary.

The meeting adopted as the name of the Association THE MARITIME LAW ASSOCIATION OF THE UNITED STATES.

The Executive Committee were directed to report at the next meeting a statement of the objects of the Association and such rules for its government as they may think convenient.

It was Resolved that a Committee of three delegates be appointed to represent the Association at the meeting of the International Maritime Committee to be held at Fishmongers' Hall, London, July 13th, 14th and 15th.

The American Ambassador, Hon. JOSEPH H. CHOATE, was appointed to be the Chairman of that Committee, Mr. WILHELMUS MYNDERSE was appointed a delegate, and the Executive Committee were instructed to appoint the third delegate.

The Executive Committee were instructed to formulate a reply to the questions proposed for discussion at the conference to be held at Fishmongers Hall, London, July 13th, 14th and 15th.

It was Resolved that the thanks of the Association be extended to the Bar Association of the City of New York for the use of the room.

The meeting adjourned to meet again on Wednesday, June 28th, 1899, at the same place at 3 P. M.

Adjourned meeting of the Maritime Law Association of the United States, held at the Association of the Bar of the City of New York, June 28th, at 3 P. M.

Present: Hon. Addison Brown, Messrs. Everett P. Wheeler, E. B. Convers, Lawrence Kneeland, Harrington Putnam, Wilhelmus Mynderse, Lorenzo Ullo, James E. Carpenter and Henry G. Ward.

Mr. WHEELER, on motion, took the chair.

Mr. PUTNAM, for the Executive Committee, reported the following By-laws, which were adopted:

1st. The name of the Association shall be THE MARITIME LAW ASSOCIATION OF THE UNITED STATES.

2d. The object of the Association shall be to advance the Maritime Law of this country, and to act with foreign associations in their efforts to bring about greater harmony in the Shipping Laws of different nations.

3d. Membership in the Association shall not be confined to the legal profession.

4th. The officers of the Association shall be a President, a Secretary and an Executive Committee of three, together with the President *virtute officii*.

5th. The officers shall be elected for the term of one year, or until their successors shall have been duly chosen, and shall have the general management of the Association, including the election of its members and the calling of meetings.

6th. There shall be an annual meeting of the Association on the first Friday of May in each year.

The Executive Committee reported answers proposed by it to be made in respect to the subjects suggested by the Executive Council of the International Maritime Committee in their circular dated May 20th, 1899, for discussion at the meeting to be held at London.

After extended debate the meeting adopted the following answers:

See Minutes of
May 3, 1901
and May 1, 1903

SUBJECT I.

“ BOTH TO BLAME; THE ALLOCATION OF DAMAGES. A CONCLUSION WAS ARRIVED AT ON THIS SUBJECT AT ANTWERP SO FAR AS THE REMEDY OF THE SHIPS BETWEEN THEMSELVES IS CONCERNED, THE COMMITTEE HAVING DECIDED THAT, WHEN IN A COLLISION BOTH SHIPS WERE TO BLAME, THE DAMAGE OUGHT TO BE APPORTIONED ACCORDING TO THE DEGREE OF THE RESPECTIVE FAULTS.

“ HOWEVER, IN VIEW OF THE PRESENT CONDITION OF THE LAW IN ENGLAND, IT HAS BEEN THOUGHT ADVISABLE TO FURTHER CONSIDER THE SUBJECT AT THE LONDON CONFERENCE, IN ORDER THAT THE WAY BE THUS PREPARED FOR THE DESIRED REFORM OF ENGLISH LAW.”

Answer: The Association recognizes the more exact theoretical justice of degrees of apportionment, but are so nearly divided in opinion as to the difficulties of such a rule in practice, that they are not prepared to make any positive recommendation in regard to it.

SUBJECT II.

“ Subdivision I. IN THE CASE OF COLLISION IN CIRCUMSTANCES OF BOTH TO BLAME SHOULD THE PRINCIPLE OF PROPORTIONAL APPORTIONMENT OF DAMAGES APPLY TO THE CARGO AS WELL AS TO THE SHIP, OR SHOULD THE CARGO OWNERS AND OTHER THIRD PARTIES BE ENTITLED TO PROCEED JOINTLY AND SEVERALLY AGAINST THE TWO VESSELS?”

Answer: It is our opinion that the following rule would be the better one, in the absence of any special circumstances or agreements affecting the subject, viz. : that the innocent third party injured by the joint fault of two vessels, should have the right to hold them and their respective owners, responsible for the damage, jointly and severally. But that, if one vessel only is proceeded against, the owner of that vessel should be allowed to bring the other vessel or her owner into

the action, or if that be impossible, to take some other proceeding, to obtain a contribution.

“Subdivision 2. SHOULD A VESSEL JOINTLY TO BLAME, PROCEEDED AGAINST BY CARGO IN VIRTUE OF THE CONTRACT OF CARRIAGE, BE ABLE TO OPPOSE TO CARGO'S CLAIM A DEFENCE OF RESPONSIBILITY FOR ONLY A PORTION OF THE DAMAGE?”

We reply to this question in accordance with our previous answer.

“Subdivision 3. IF IT IS ADMITTED THAT THE PROPORTIONAL PRINCIPLE SHALL APPLY TO CARGO, OUGHT THEN THE CARGO TO ESTABLISH THE DEGREE OF FAULT ATTACHING TO EACH VESSEL, OR DOES IT LIE UPON THE SHIP WHICH ALLEGES JOINT FAULT TO ESTABLISH THE DEGREES OF FAULT?”

Answer: It is our opinion that the cargo should not be required to establish the degree of fault between faulty vessels.

SUBJECT III.

“*Shipowners' Liability.* SHOULD THE RESPONSIBILITY OF SHIPOWNERS BE PERSONAL; AND, IF SO, SHOULD IT BE LIMITED AND HOW, OR SHOULD THE LIABILITY BE CONFINED TO THE SHIP AND FREIGHT?”

“THIS VERY IMPORTANT QUESTION MAY FOR CONVENIENCE BE SET OUT THUS: IF THE LIABILITY OF SHIPOWNERS SHOULD BE LIMITED IN CERTAIN CASES,

“(a) SHOULD THE LIMITATION BE A FIXED SUM PROPORTIONAL TO TONNAGE (ENGLISH SYSTEM); OR SHOULD IT BE THE VALUE OF THE SHIP OR FREIGHT (CONTINENTAL SYSTEM)?

“(b) WHAT ARE THE CASES IN WHICH LIABILITY SHOULD BE LIMITED?”

Answer: The injured party should be at liberty to pursue his remedy against the shipowner *in personam* or against the ship and freight *in rem*, that the personal responsibility of

the shipowner should be limited to the value of his ship and freight.

(a) We have already answered.

(b) We think the cases in which liability should be limited are maritime *torts*, occurring without the privity or knowledge of the shipowner, and maritime contracts which are to be performed by the master and crew, or which are entered into by a master in his capacity as such.

It was Resolved that the Secretary of the Association be instructed to forward a copy of the decisions of the Association to-day to the General Secretary of the Comité International Maritime, and also a copy to Mr. Mynderse, a delegate to the Conference.

It was Resolved that the Executive Committee be authorized to forward to each member of the Association a copy of the By-Laws and of the results of the Association's deliberations as arrived at to-day, together with a roll of the members.

The meeting then adjourned, subject to the call of the President.

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