

April, 1935

**THE MARITIME LAW ASSOCIATION
OF THE UNITED STATES**

ANNUAL MEETING—APRIL 26, 1935

The Thirty-sixth Annual Meeting of the Association was held at the House of the Association of the Bar of the City of New York on Friday, April 26, 1935, at 8 P. M., after an informal supper at the Harvard Club attended by forty-four members.

Present were:

Hon. VanVechten Veeder, the President, presiding; the Secretary, Arnold W. Knauth, and the following eighty-one members:

Earl Appleman	Earle Farwell
Robert E. Ard	Morris Douw Ferris
R. D. Alsop	Ezra G. Benedict Fox
George W. Betts, Jr.	H. B. Finn
Arthur M. Boal	S. B. Fortenbaugh, Jr.
Henry I. Bernard	Albert T. Gould
Joseph M. Brush	Charles S. Haight
John T. Byrne	Charles W. Harvey
Charles C. Burlingham	Joseph W. Henderson
Peter S. Carter	Charles R. Hickox
A. V. Cherbonnier	Robert E. Hill
William E. Collins	Edwin C. Hollins
Charles T. Cowenhoven	Oscar R. Houston
John W. Crandall	Roscoe H. Hupper
William J. Dean	Carl P. Kramer
Martin Detels	Paul H. Lacques
D. Roger Englar	Edmund F. Lamb

Howard M. Long	Charles F. Quantrell
Henry N. Longley	Edward A. Quinlan
George deForest Lord	Gregory S. Rivkins
John A. Lyon	James W. Ryan
Frank C. Mason	W. Parker Sedgwick
Leonard J. Matteson	John H. Skeen
P. J. R. McEntegart	Paul Speer
William H. McGrann	George C. Sprague
John A. McManus	Cyril S. Stanley
G. Hunter Merritt	J. Frank Staley
Thomas H. Middleton	Henry V. Stebbins
S. D. McComb	Rush Taggart
Russell T. Mount	John G. Tice
Thomas F. Mount	Sawyer Thompson
Edwin S. Murphy	Delbert M. Tibbetts
E. W. Murray	Paul Tison
Emory H. Niles	Alonzo L. Tyler
William J. Nunnally	Eugene Underwood
Alfred Ogden	Burton H. White
Henry E. Otto	Carver W. Wolfe
S. C. Otto	William H. Woolley
Edward F. Platow	Charles E. Wythe
John C. Prizer	John W. R. Zisgen
John E. Purdy	

The reading of the minutes of the previous annual meeting was dispensed with; the annual reports of the Secretary and the Treasurer were read and ordered on file and are printed herewith.

ELECTION OF MEMBERS

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

ACTIVE MEMBERS

<i>Name</i>	<i>Proposed by</i>
Charles W. Bartlett, Bartlett, Jennings & Smith, 75 Federal Street, Boston, Mass.	Charles S. Bolster

<i>Name</i>	<i>Proposed by</i>
S. D. McComb, Marine Office of America, 99 John St., New York	Arthur M. Boal
Carl P. Kremer, U. S. P. & I. Agency, 116 John St., New York	Arthur M. Boal
Henry Bernard, Shipowners Claims Bureau, Inc., 64 Water St., New York	Robert Ard
Richard L. Sullivan, Kirlin, Campbell, Hickox, Keating & McGrann, 120 Broadway, New York.	Robert S. Erskine
John W. Neville, Marsh & McLennan, 70 Pine St., New York	C. I. Clark
Lucian Y. Ray, Admiralty Division, Department of Justice, Washington, D. C.	J. F. Staley
John G. Tice, Universal Insurance Co., 111 John St., New York	E. F. Platow
Reese D. Alsop, Hunt, Hill & Betts, 120 Broadway, New York	G. W. Betts, Jr.
Frederic N. Melius, Bigham, Englar, Jones & Houston, 99 John St., New York	Martin Detels
Samuel C. Otto, Otto & Lyon, 60 Broad St., New York	Henry Otto

<i>Name</i>	<i>Proposed by</i>
Joseph M. Brush, Barry, Wainwright, Thacher & Symmers, 72 Wall Street, New York	Earle Farwell
A. V. Cherbonnier, Kirlin, Campbell, Hickox, Keating & McGrann, 120 Broadway, New York.	Robert S. Erskine
Harold B. Finn, Kirlin, Campbell, Hickox, Keating & McGrann, 120 Broadway, New York.	Robert S. Erskine
Samuel B. Fortenbaugh, Jr., Shields, Clark, Brown & McCown, 1900 Girard Trust Bldg., Philadelphia, Pa.	Everett H. Brown, Jr.
John T. Byrne, Talbot, Bird & Co., Inc., New York, N. Y.	Paul H. Lacques
Vincent W. Sweeney, Home Insurance Co., 59 Maiden Lane, New York	Gregory Rivkins
Lawrence J. Brengle, American Marine Insurance Syndicates, 99 John St., New York	Paul H. Lacques
Capt. Jas. H. Tomb, U. S. N. Retired, Supt. State Nautical Academy, N. Y. State Merchant Marine Academy, 80 Centre St., New York	Earle Farwell
James H. Lyons, Insurance Co. of North America, 1600 Arch St., Philadelphia, Pa.	O. R. Houston

ASSOCIATE MEMBERS

- Hon. Murray Hulbert,
U. S. District Judge,
Southern District of New York.
- Hon. Elisha H. Brewster,
U. S. District Judge,
District of Massachusetts,
Springfield, Mass.
- Hon. Hugh D. McLellan,
U. S. District Judge,
District of Massachusetts,
Boston, Mass.
- Hon. John W. Eggleston,
Supreme Court of Appeals,
Richmond, Va.
- Hon. John D. Nields,
U. S. District Judge,
District of Delaware,
Wilmington, Del.

The President stated that in December, 1934, he had found it desirable to have a scout committee to keep track of bills introduced in Congress, a function performed by Messrs. Niles, Poor and Dean. As soon as it had appeared that the bills introduced could be grouped, he appointed two special committees, one to consider the bills dealing with safety at sea and the other the bills dealing with limitation of liability, the Harter Act and the Hague Rules. In view of the vast amount of legislation proposed at this session of Congress, these committees could not, as such, take any position in regard to them, unless and until they could speak for the Association, and their reports now lay before the meeting.

COMMITTEE REPORTS

Safety at Sea Legislation

Mr. Farwell, Chairman of the Committee, presented a report, which had been printed and distributed before the meeting, as Document No. 206, commenting on pending bills before Congress.

The Committee reported two amendments to its report, the dissenting member having withdrawn his objections to H. R. 6037 and H. R. 6203. Consequently, the Committee's recommendations as to those two bills became unanimous. The Committee asked further opportunity to study the subject and make further reports and recommendations, and requested to be continued and enlarged in membership, with wider geographical distribution of Committee members, who had been drawn from the area between Boston and Norfolk. Mr. Burlingham thought the Committee adequate and a larger Committee unnecessary, and, after some discussion, *moved* that the present Committee be continued and authorized, representing the Association, to do everything possible to secure the enactment of the legislation which it recommended, to press for the amendments which it recommended, and to oppose those bills which it did not recommend, in accordance with the report brought in.

Furthermore, he moved that the 1929 Convention on Safety at Sea, regarding which the Committee did not bring in any recommendation, should again be endorsed and approved by the Association, and its ratification urged upon the Administration and Senate.

Mr. Englar seconded the resolution.

Mr. Farwell stated that the Committee had not, in the time at its disposal, felt prepared to pass upon the constitutional aspects of the Safety Convention. Mr. Knauth stated that opposition to the Safety Convention came from Andrew Furuseth and Silas B. Axtell, as president and counsel for the International Seamen's Union. Admiral J. G. Tawresey, a member of the London Conference which drew the Convention in 1929, submitted an analysis on behalf of the Shipping Board in 1931 favoring the Convention and endeavoring to meet and overcome the objections of the Seamen's Union. Mr. Furuseth submitted memoranda to the President on May 16 and 19, 1933, opposing the Convention. In December, 1934, the Seamen's Union renewed its opposition in the form of a brief presented to Congress by H. W. Hutton, San Francisco, attorney for the International Seamen's Union of America. The opposition was centered on two questions: (1) Article 48 provides that each Government undertakes, for its national ships, to maintain or adopt measures

to insure that its ships shall be sufficiently and efficiently manned; the Union believes that under this Article a foreign ship, not properly manned according to our standards, may freely trade to our ports to the damage of our ships, with the result that the standards of safety and labor conditions on our ships will be reduced by the force of competition. Article 54 states what control officials may exercise over foreign ships in respect of safety and efficient manning; the Union feels that the second paragraph deprives our officials of authority to do more than verify what the conditions are and leaves the enforcement of the matter in the hands of the Consul representing the nation whose flag the ship flies. Mr. Knauth had corresponded with the British Chamber of Shipping to find out how control was operating in Great Britain, where the Convention has now been in force for about two years, and had received a statement that the British authorities did not interpret Articles 48 and 54 in the sense suggested and feared by the Seamen's Union, but, on the contrary, were prepared to enforce the standards of the Convention and British safety standards whenever their visit to a foreign ship should show conditions which were in fact unsafe or improper. In fact, however, no incident requiring the exercise of control had yet occurred in Great Britain. (2) The Union also objects to Article 61, which provides how the standards of the Convention may be modified by further conferences, and desires freedom of action for the United States to legislate further in regard to safety, without invoking the mechanism of a new Conference.

Mr. Burlingham's resolution being put, it was carried unanimously.

Mr. Farwell then stated that the Committee felt there should be drastic changes in the law with respect to (1) obtaining greater permanency of the personnel of the crews on passenger ships; (2) requiring all passenger ships to maintain the standard as to watch officers now practiced on transatlantic passenger liners, namely, two licensed officers assigned to every watch; (3) better organized fire patrols. The Committee felt that the efficient and satisfactory functioning of the crew in disasters and emergencies depends on greater stability of personnel and much greater preparation in the form of drills. The Committee also felt that it was more important to have more men on duty per watch, than to have

greater subdivision of the deck force into watches; greater safety would not be achieved by having the same number of men on watch with more rapid rotation of watches, but by having more men on watch to perform necessary tasks when emergencies arise. The Committee had become greatly interested in the work; a serious task lies ahead, involving co-operation with many other organizations; it is a six months' task for whoever undertakes it. The Administration's sixteen bills (listed in Documents Nos. 198 and 199) have not, in the Committee's opinion, more than scratched the surface. After discussion, participated in by Messrs. Englar, Hickox, Collins and Haight, Mr. Hickox *moved* that the President be authorized to increase the Committee, and that the Committee be instructed to recommend such additional legislation as it thinks desirable to bring about the results desired, and to report back to a meeting of the Association. This motion was seconded and carried unanimously.

Limitation Laws

Mr. Haight, on behalf of the special committee consisting of Mr. Campbell, Mr. Englar and himself, stated that the Committee had met twice and functioned without a chairman. Mr. Campbell being absent, Mr. Haight read the following report prepared by Mr. Englar:

"H. R. 4550.

This Bill was introduced by Dr. Sirovich, Representative from New York.

The Bill proposes an amendment of Section 3 of the Harter Act deleting the present statutory exemption for faults or errors in navigation or management; and also an amendment of the Fire Statute which would result in the vessel owner losing the benefit of the statutory exemption if the fire is caused by the design or negligence of any employee of the vessel owner, however humble.

The Bill also proposes a radical change in the present law having relation to limitation of liability. It proposes that the privity or knowledge of the master of the vessel

shall be deemed to be that of the owner. In view of this provision, in most cases of collision and stranding, the vessel owner would be liable without limitation for loss of life and personal injuries, and for loss of cargo. Most collisions and strandings are due to negligence in navigation; and these are the most common types of marine disaster.

Where, notwithstanding the provisions above mentioned, the shipowner is still entitled to limit his liability, the Bill provides that he shall be liable to the extent of \$100 per registered ton for loss of life or personal injury, and to the extent of \$50 per registered ton in addition for damage to property.

The Act provides that clearance shall be denied a vessel unless the Secretary of Commerce issues a certificate to be presented to the Collector of Customs certifying that the vessel owner has effective insurance to the extent of the limited liability, or has satisfied the Secretary of Commerce of its financial ability to pay the amount of limited liability. To comply with the latter alternative, the vessel owner must file with a depository designated by the Secretary of Commerce, either an approved indemnity bond or approved securities.

Hearings on this Bill were held before the House Committee on Merchant Marine, Radio and Fisheries on April 3, 1935. There appeared first the sponsor of the Bill, the Honorable William I. Sirovich and Mr. Thomas E. Duffy, marine editor of the World-Telegram. They were followed by officers and members of various associations of survivors of the 'Morro Castle' and 'Mohawk' disasters, and relatives of persons who perished in those disasters. One of the associations was represented by Mr. Silas B. Axtell, together with Miss Adele I. Springer, who is probably the author of the Bill.

As might have been expected from the above list of witnesses, the appeal was largely emotional, the general theme being a demand that the American traveling public be more adequately protected on ships at sea. Among the

points developed in the course of the hearing were the following:

1. The contrast between the indemnity of several million dollars paid to the shipowners and the mere pittance of about twenty to thirty thousand dollars which might be handed out to the survivors for loss of life and property unless limitation can be defeated.

2. The desire to impose upon the shipowners and operators such a degree of personal responsibility as would cause them to exercise a much greater degree of care in making their vessels seaworthy and keeping them so.

3. A reference to the privity and knowledge section of the Bill as the 'heart' of the Bill.

4. A desire to supplement the present inadequate government system of inspection of ships by a system of inspection by private insurance companies.

5. Emphasis upon the alleged fact that the proposed limitation funds were only slightly in excess of the British limitation funds; and the fact that the British limitation law had been operative some 70 years.

6. The modification of the Fire Statute was barely mentioned.

The opponents of the Bill have not yet been heard nor has a date been set for such hearing. In all likelihood a date will be set shortly after completion of the hearings on the Ship Subsidy Bill. The best estimate as to the date of such hearing is that it will be early in May. [*Note:* The hearing was subsequently scheduled for May 13th.]

It is apparent that the provisions of this Bill would, to a very considerable extent, supersede the present law as set forth in the Harter Act; and would also be inconsistent with the White Bill, designed to put into effect the Hague Rules.

Introduced by Senator Copeland, of New York.

This Bill is designed to amend Section 2 of the Harter Act in such a manner as to afford cargo owners the same advantages which they would obtain under the Hague Rules. If the Hague Rules are adopted, this Bill will presumably be withdrawn."

Discussion

Mr. Wolfe asked that the Committee state its recommendations. Mr. Haight stated that the Committee had functioned as a scouting committee; that it was not thought that a committee of this Association could assume the burden of going to Washington to oppose or favor or shape legislation. All three committee members were opposed to Dr. Sirovich's bill, H. R. 4550. Limitation being a matter of vital interest to the shipowners, the shipowners should lay out and conduct their own campaign in accordance with their own views.

Mr. Betts stated that he understood the American Steamship Owners' Association was at work on its own bill; that Dr. Sirovich's bill in its original form, H. R. 4550, is unsatisfactory, but that there is much pressure for a change in the limitation law so as to provide a substantial fund for death and injury cases and a second fund for cargo; and that he thought that if such funds were provided, the other provisions of the Sirovich bill would not make further progress. Mr. Englar stated that the Committee was unanimous in opposing the development of any situation which would bring the American laws of limitation out of alignment with the maritime law of the entire world on this subject; that the Sirovich bill, in its present form, is a mistake; on the other hand, if it is modified, a point might be reached where the Committee would no longer be unanimous in opposing it. Mr. Campbell, on behalf of the American Steamship Owners' Association, had stated to him that he was willing to agree to a change in the American law on the lines of the British law, which provides the well-known funds of £8 and £15, and it is possible that the American laws would be modified along some such line. The Committee did not ask any powers but was willing to exercise

any powers the Association might give it. Mr. Niles stated that limitation was a business question; the function of this Association is to improve the maritime law and procedure. Mr. Englar's report having brought the situation to our attention, he *moved* that the Committee be thanked for their report and asked to continue to watch and report any further developments that might occur. This motion being seconded, was unanimously adopted.

Hague Rules

Mr. Haight stated that the Senate had advised ratification of the Brussels Bill of Lading Convention (the Hague Rules) on April 1, 1935. He had been working on uniformity of law as to bills of lading for over twenty-five years, and the first great results had been obtained in 1910 with the Uniform State Bill of Lading Acts, followed in 1916 by passage of the Federal Bill of Lading Act, commonly known as the Pomerene Act. Immediately after the War, the question of international agreement as to uniformity and standardization of the principal clauses of ocean bills of lading had been taken up and in 1922 at The Hague and 1923 and 1924 at Brussels, under the guidance and leadership of the President of our own Association, Judge Hough, the Hague Rules had been formulated, unanimously adopted as a diplomatic Convention by twenty-four States, and recommended to all nations to be adopted as a Convention or Treaty and also as a basis for legislative action. Great Britain enacted the Rules in 1924 and was followed by Australia, Belgium and, to a certain extent, by the Netherlands; the Rules have been extended to India and all the British possessions and mandates by subsequent proclamations. The Scandinavian countries, Norway, Denmark, Sweden and Finland, have arranged to adopt the Rules in January, 1936, when they will have completed the formalities required by the agreement between those four countries as to uniformity of their maritime and commercial legislation. Official assurance had been obtained from Italy and Canada that both of those countries will adopt the Hague Rules if the United States does so; if that result should be obtained, 88% of the shipping of the world by flags would come under the Rules. The important remaining question would then be obtaining the ad-

herence of Germany, France and Japan, of which he would then feel confident.

As Chairman of the Bill of Lading Committee of the International Chamber of Commerce, he had, in November, 1934, determined upon a fresh effort to complete the necessary steps for the adherence of the United States, which would require both ratification and legislation. The United States Chamber of Commerce had, in November, 1930, held a general conference on the Hague Rules to see if agreement could be arrived at, with the result that everyone present had agreed that, with seven minor changes, the Rules should be enacted. While the steamship owners were not present at that conference, the bankers, cargo and underwriters were well represented. Progress in Congress was, however, thereafter blocked by the development of the depression and the overwhelming demand for emergency relief legislation, so that no progress had been made in Congress until the end of March, 1935, when the Senate Foreign Relations Committee brought in a favorable report on the Convention and ratification was advised without opposition on April 1, 1935, with one reservation stating that the value per package should not be taken in gold but in lawful money of the United States at \$500. Thereupon some shippers, particularly the Chicago packers, had taken the position that they would not agree to ratification unless the seven changes agreed to in 1930 should first be incorporated in legislation. As a result of conferences, the Convention now rests with the State Department and will not be presented to the President until the Hague Rules have been passed as legislation. An appropriate bill, S. 1152, had already been introduced by Senator White, of Maine, who is greatly interested in it. The shippers, particularly the packers, the National Industrial Traffic League, the automobile organizations, and many others, are all keenly interested, and it is hoped that there will shortly be notice of a hearing on both the Convention and the bill. If at that hearing the shipowners, the cargo interests, the underwriters and the bankers will come forward and support the bill, it is believed that it can be passed in a few days.

Mr. Haight did not ask for any resolution, but asked the members to take the matter up with their clients and bring about their active support at the hearing shortly to be held.

The hearing was subsequently scheduled for May 10th.

Mr. Betts inquired why legislation should be required in addition to the ratification of the Convention as a Treaty. Mr. Haight stated that there were three reasons: (1) to dispose of the question whether the Convention, as a Treaty, would be self-executory; if there were a statute, there would be no doubt that the Rules would be law as between one American and another; (2) under the Convention, there would be a question whether an American citizen could work under the Rules in dealing with a citizen of a non-ratifying State; if there were a statute like the Harter Act applying the Rules to all American trade in and out, Americans could enforce the Rules against citizens of all nations, whether their governments had ratified the Convention or not; (3) the final reason for legislation is to incorporate the seven minor changes agreed to in 1930, which clarify the Rules without changing their essence, and also to provide that packages shall be valued at not less than \$500 lawful money of the United States instead of £100 gold. It was intended to apply the Rules to all carriage by sea, foreign, coastwise and intercoastal.

Operation of Vessels by Receivers

The Committee reports, majority and minority, Document No. 204, were presented for the majority by Mr. McGrann, in the absence of Mr. Jones, and for the minority by Mr. Betts. In the ensuing debate, Mr. Crandall and Mr. Alsop supported Mr. Betts in the view that the enactment of Section 77-B of the National Bankruptcy Act in June, 1934, had fundamentally altered the previous equity situation by (1) vesting title to receivership property in the receiver; and (2) by authorizing the sale of assets free of liens. Mr. Betts cited the *Canada Southern Railway* case, 109 U. S. 527 (1883), in support of the view that foreign courts would respect American reorganizations under Section 77-B, inasmuch as the American court had in that case respected a similar Canadian reorganization, on the basis of comity.

Mr. Ryan supported the majority report and *moved* that it be approved and the Committee directed to take up with the senior District Judges in the Southern and Eastern Districts the question of bringing about the adoption of a rule such as the majority recommended.

Mr. Crandall expressed the view that the District Court could not adopt such a rule, in view of the holding of the Supreme Court in the *Manhattan Railway* case, 289 U. S. 479 (1933), that Southern District Court Rules 1-A and 11-A were invalid; also in view of the Judicial Code, Section 23, R. S. 918, and the broad language of Section 77-B, which contemplates discretionary operation of properties, including ships, by receivers under the guidance of the court. Mr. Ryan, on the other hand, mentioned the adoption by the Southern District Court and its enforcement of the Equity Rule assigning all receiverships to the Irving Trust Company. Mr. Betts pointed out that since June, 1934, there had been no more Equity receiverships, and especially cited Section 77-B, subsection (b) (5), subdivision (b) thereof, empowering the court to sell property free of all liens at not less than a fair upset price; there was discussion of the meaning of the holding of the Supreme Court on April 1st in the *Continental Bank* case.

Mr. Tibbetts favored the majority report, but, considering the text as submitted to be too broad, proposed the following text, which Mr. Ryan accepted:

"PROPOSED RULE TO BE ADOPTED BOTH IN EQUITY AND
BANKRUPTCY.

A vessel in the possession of an officer or appointee of a Court of the United States (including a debtor continued temporarily in possession) shall not be operated except under the following conditions: (1) that a showing, satisfactory to the court, must be made that funds are available, or can be made available from the operations of the vessel, or otherwise, to pay all probable expenses in connection with such operation; (2) insurance must be obtained in a form as comprehensive as obtainable, including the usual hull and Protection and Indemnity forms, against all insurable risks and hazards of operation; (3) separate insurance coverage must be provided for the benefit of holders of maritime liens, other than a preferred mortgage, which existed at the time the vessel came into the possession of said officer or appointee of the court, in an amount which the court shall determine to be

reasonable but in no event to exceed the value of said vessel; and (4) in the case of a vessel not subject to a preferred mortgage adequate security by bond or otherwise must be furnished to the holders of maritime liens existing at the time the vessel came into the possession of said officer or appointee of the court.

No injunction or other order restraining maritime lienors from proceeding against any vessel in the possession of any officer or appointee of a court of the United States shall be granted until the conditions aforesaid are performed. If said conditions are not performed after the lapse of ten days from the time any vessel comes into the possession of an officer or appointee of a court of the United States, such vessel may be proceeded against in the same manner as if she were in the possession of private persons."

Mr. Tibbetts stated that the two dangers to be considered were (1) that maritime lienors should be saddled with losses resulting from the operation of a ship by a receiver, and (2) that the ship might be totally lost while being operated by the receiver without any insurance for the benefit of the lienors. Mr. Houston remarked that the *Esperanza* case (1930 A. M. C. 293, 2 C. C. A.) afforded a good example of the manner in which pre-bankruptcy lienors' interests ought to be protected by insurance of the vessel in operation.

Mr. Alsop pointed out the conflict between the admiralty theory of the maritime lien and the broad viewpoint expressed by Congress in Section 77-B, modifying the status of all secured liens to enable debtors who come into court in good faith to reorganize their businesses for the benefit of all concerned. The view that Congress can modify the rights of maritime lienors by appropriate legislation has been discussed and supported by Professor John Gerdes, of New York University Law School, in an article on "Good Faith in Proceedings Under Section 77-B," which can be found in the Georgetown Law Journal of March, 1935, and in a related article by the same writer on "Jurisdiction of the Court in Proceedings Under Section 77-B," in the Brooklyn Law Review for March, 1935.

On motion duly made and seconded, the majority report proposing the rule in the form proposed by Mr. Tibbetts was adopted, and the Committee was instructed to take the matter up with the senior Judges of the Southern and Eastern Districts, with a view to bringing about the adoption of a rule of that character.

[*Note:* The majority members of the Committee called on Judge Knox during the following week and report that their views have been received with sympathy.]

Conflict of Laws

Mr. Hickox stated that the American Law Institute's Restatement of the Law as to Conflict of Laws, a subject in charge of Professor Beale of the Harvard Law School as reporter, had been discussed with Professor Beale and with the Director of the American Law Institute by a committee consisting of Judge Veeder, Mr. Burlingham and himself, with the result that the Committee had been requested to redraft the statement of the eight sections dealing with "Maritime Wrongs." This had been done and the eight sections have been printed in the permanent edition of the Restatement of the Conflict of Laws, as adopted May 11, 1934, with the following text:

“RESTATEMENT: CONFLICT OF LAWS.

MARITIME TORTS.

SEC. 404. *Tort in Territorial Waters.* Liability for an alleged tort committed on board a vessel while the vessel is in the territorial waters of a state is determined, except as stated in Section 405, by the law of that state.

SEC. 405. *Tort in Territorial Waters Affecting Only Internal Economy of Vessel.* Liability for an alleged tort committed on board a vessel while the vessel is in the territorial waters of a state is determined, if it affects only the internal economy or discipline of the vessel, by the law of the state whose flag the vessel flies.

SEC. 406. *Tort on High Seas.* Liability for an alleged tort committed on board a vessel while the vessel is on the high seas outside the territorial waters of any state is determined by the law of the state whose flag the vessel flies.

SEC. 407. *Navigation in Territorial Waters.* Liability for an alleged tort in the navigation of a vessel in the territorial waters of a state is determined by the law of that state.

SEC. 408. *Navigation on High Seas.* Liability for an alleged tort in the navigation of a vessel on the high seas outside the territorial waters of any state is determined by the law of the state whose flag the vessel flies.

SEC. 409. *Tort by Collision in Territorial Waters.* Liability for an alleged tort caused by collision in the territorial waters of a state is governed by the law of that state.

SEC. 410. *Tort by Collision on High Seas.* Liability for an alleged tort caused by collision on the high seas outside the territorial waters of any state is governed,

- (a) by the laws of the states whose flags the vessels fly if the laws of such states are the same;
- (b) by the law of the forum if the laws of the states whose flags the vessels fly are not the same.

SEC. 411. *Limitation of Liability.* The limitation of liability in a maritime cause of action is determined by the law of the forum, irrespective of the law which created the cause of action."

The Committee believed that the Restatement in its present form states the law as laid down by the Supreme Court of the United States in leading cases, particularly *The Belgenland*, 114 U. S. 355.

Collision Jurisdiction

Judge Veeder, referring to the conflict expressed in 1930 in the Committee reports submitted by Mr. Griffin and Mr. Clark, on the one hand, and Mr. McGrann on the other, stated that the

Harvard Committee on Research in International Law is about to publish an exhaustively documented statement of what the law ought to be as to conflict of jurisdictions in respect of crime, which necessarily deals with crimes committed on the high seas. A copy of the entire document will be lodged with the Secretary's records. This restatement, which is designed in the form of a convention or treaty, with the eventual object of adoption by all nations, exhausts all phases of the subject in a most satisfactory manner.

Salvage of Aircraft

Mr. Knauth stated that the Citeja (Comité International d'Experts Juridiques Aériens)—an informal body performing for international aviation the functions which the International Maritime Committee performs for shipping—is engaged in formulating a Convention dealing with salvage of one aircraft by another. Incidentally, this Convention also proposes to deal with salvage of aircraft by ships, and from that point of view is of interest to this Association. The Citeja proposes a novel principle: namely, that any vessel having knowledge of the distress of aircraft must go to its rescue, leaving its course, if necessary, for that purpose. The present Salvage Convention of 1910, as between ship and ship, merely provides that vessels must assist persons *found* in distress at sea.

On motion duly made and seconded, the President was authorized to appoint a committee to examine this subject.

Legal Costs

Mr. Betts referred to the Committee's report, Document No. 203, and urged all the members to communicate with Senator Moore and Senator Barber, who have introduced S. 2448 on a non-partisan basis. The bill is not yet out of the Senate Judiciary Committee and it is important to get it out.

The corresponding House bill, H. R. 29, is out of the House Judiciary Committee with a favorable report, and is expected to be passed by the House without difficulty. The chances of enactment of this useful reform therefore depend upon obtaining action in the Senate.

NEW BUSINESS

Revision of By-Laws

Mr. Ryan suggested that there be created a special office in charge of "discussion of maritime affairs" to bring about and organize the discussion of interesting current legislation and questions by informal groups of members, so as to prepare the members for public debate and discussion and action at meetings. Mr. Betts and Mr. Matteson suggested that the By-Laws are in general need of restatement, and, on motion by Mr. Matteson, seconded by Mr. Betts, the following resolution was unanimously adopted:

RESOLVED, that the Executive Committee of the Association be directed to meet and consider, and report at a Special Meeting of the Association to be held on a date to be fixed, preferably not later than June, 1935, on the advisability of revising the Constitution and By-Laws of the Association in order to bring about greater continuity and more effective functioning of the Executive Committee of the Association through—

- (a) increasing the tenure of office of individual members and providing for partial replacement by classes each year;
- (b) more specific definition of powers, duties and authority of the Executive Committee;
- (c) provision for more effective organization of the Committee for co-operating with the officers and furthering the purposes of the Association;

and that the Executive Committee be further directed to consider plans for extending the membership of the Association, particularly in those sections of the country not now well represented, and for increasing the interest of the members in the meetings of the Association and the usefulness of the Association to the members, to legislators and to the public.

ELECTION OF OFFICERS

The Nominating Committee brought in its report, as follows:

“In pursuance of our appointment by you as a Nominating Committee, to nominate members of the Association for the offices of President, Secretary and Treasurer, and as the Executive Committee, for the ensuing year, to serve until the next Annual Meeting of the Association to be held in 1936, we hereby nominate the following:

President: VanVechten Veeder.

Secretary and Treasurer: Arnold W. Knauth.

Members (8) of the Executive Committee:

Lawrence Bogle, Seattle;

Chauncey I. Clark, New York;

T. Catesby Jones, New York;

Cletus Keating, New York;

George M. Lanning, Norfolk;

Ira S. Lillick, San Francisco;

J. Frank Staley, Washington, D. C.;

George H. Terriberly, New Orleans.

The Committee has received suggestions from members of the Association concerning the advisability of nominations for additional offices, and with respect to procedures in the method of nominations of members for offices; but, as it is believed that action on these suggestions is not within the functional scope of this Committee, and entail possible amendments to the By-Laws of the Association, the Committee has not acted on the suggestions offered, and submits its conclusions as above.

RUSSELL T. MOUNT,

LEONARD J. MATTESON,

and

W. H. McGRANN, Chairman.”

On motion duly made and seconded, the nominations were closed and the persons nominated declared elected.

The meeting thereupon adjourned at 11.25 P. M.

TREASURER'S REPORT

April 26, 1935

BALANCES MARCH 15, 1934:

Central Hanover.....	\$ 874.97	
Seamen's Bank for Savings.....	1,127.07	\$2,002.04

RECEIPTS:

Central Hanover Account:

Dues 1931.....	\$ 50.00	
1932.....	100.00	
1933.....	245.00	
1934.....	1,270.00	
June dinner subscriptions	345.00	
Sale of documents.....	11.25	2,021.25
		<hr/>
Savings Account—interest.....	39.98	2,061.23

TOTAL RECEIPTS \$4,063.27

DISBURSEMENTS:

1934 Annual Meeting expenses.....	\$ 118.39
Printing	1,334.35
(Note: Hough—History, cost \$449.50—50¢ each; Limitation report cost \$229.03—22¢ each.)	
Addressing and mailing.....	87.66
Stationery and envelopes.....	44.43
Stenography and miscellaneous secre- tarial disbursements.....	474.46
American Maritime Cases subscrip- tion	50.00
Binding records.....	41.25
Documents	43.57
June dinner expense.....	874.02

(Note: Excess of expense over sub-
scriptions was \$529.02. At the
time of the dinner back dues
were paid up in the amount of
\$210.)

Bank charge.....	3.00
Check tax.....	.74
International Maritime Committee subscription	250.00
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TOTAL DISBURSEMENTS	3,321.87
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BALANCE APRIL 1, 1935.....	\$ 741.40
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(Note: The Savings Bank balance was transferred to the checking account.)

ARNOLD W. KNAUTH,
Treasurer.

SECRETARY'S REPORT

The activity of the past year has been as pronounced as the quiet of the two preceding years had been noticeable. After the annual meeting on March 23, 1934, the History of the Southern District Court, a document unexpectedly found by Mrs. Hough among Judge Hough's papers, was put into shape and printed. Specially bound copies were presented to Mrs. Hough and placed in various law libraries in the city and elsewhere. An extra supply has been set aside for distribution to new members.

On June 27th, a dinner complimentary to Judge Learned Hand on his completion of twenty-five years on the federal bench was tendered at the University Club and largely attended; Mr. Chauncey I. Clark, with the assistance of Mr. Adrian J. O'Kane, yielded to the enthusiasm of the overflow of guests and found space for a hundred and forty diners where anchorage had been prepared for a hundred. Moved by the cordial tribute of bench and bar, Judge Hand spoke with great warmth of feeling.

A new list of members, stating the addresses and names of firms, was prepared during the summer.

A special Fourth Circuit committee of members brought about a desirable amendment of the Fourth Circuit rules as to records on admiralty appeals through conference with Judge Parker.

The *Morro Castle* disaster on September 8th caused a large amount of correspondence; many members consulted the Association's records and files, and it became necessary to bind some of the older and rarer volumes in order to preserve them from wear. The records as to the texts and status of many conventions and treaties were brought up to date and put in better order for readier consultation. The president appointed Messrs. Niles, Poor and Dean a watching committee to keep track of the development of the general situation; and in this connection, as it became evident that many erroneous statements were gaining circulation as to the character of the shipowners' limitation laws, this committee also prepared a report on the history and present status of domestic and foreign laws concerning limitation of shipowners' liability. This attracted world-wide attention; many copies have been distributed, and an extra supply has been printed.

In January, when Dr. Sirovich introduced H. R. 4550, a comparative print was prepared; the demand quickly exhausted the supply of copies.

Early in February the Bureau of Navigation of the Department of Commerce informally released draft texts of its program of legislation through the Association, in the form of sixteen draft bills. Portions of these texts now appear in the Administration's pending Ship Subsidy and Merchant Marine Bill and in other bills. Other portions appear to have yielded to criticism.

Late in February, when the legislative situation had developed sufficiently, the bills dealing with Safety were referred to one special committee for analysis and comment, and the bills relating to Limitation, Harter Act and Hague Rules were referred to another special committee. Their reports have been brought before this meeting for action.

The Legal Costs Committee and the Committee on Operation of Vessels by Receivers were also active and had reports printed.

The watching committee, transmuted into a Committee on Pending Legislation, has brought in a series of reports on the bills now before Congress relating to shipping.

Twenty-four applications for membership have been considered during the year. Including those being acted upon at this meeting, the membership of the Association is:

Active	327
Associate	62
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Total.....	389

During the year there were reported three deaths—Messrs. Gorham of Seattle, Laws of Philadelphia, and Judge Hale of Maine.

One resignation was received, and nine members were dropped because of non-payment of dues and lack of expression of further interest in the Association.

ARNOLD W. KNAUTH,
Secretary.