

DOCUMENT No. 231

DECEMBER 28, 1936

FOR INFORMATION

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

SAFETY LAWS—LIMITATION LAWS.

The American Bar Association at its Boston meetings in August, 1936, called upon its Admiralty Committee to investigate the present state of the laws as to safety and limitation of liability and report thereon to the mid-winter meeting of the House of Delegates.

The general subject of limitation laws is fully reviewed in the report (Document 196—1935) prepared by Messrs. Poor, Dean and Niles. The present American statute is printed in Document 228, June, 1936. Extra copies of both are still available (70 cents).

The report which will be presented to the House of Delegates of the American Bar Association at Cincinnati on Thursday, January 7, 1937, at 10 A. M., is as follows:

**REPORT
OF THE
STANDING COMMITTEE ON ADMIRALTY AND
MARITIME LAW.**

To the American Bar Association:

RECOMMENDATIONS.

Your Committee recommends the adoption of the following resolution:

RESOLVED, That the American Bar Association recommends that Congress enact legislation amending the Revised Statutes

relative to limitation of shipowners' liability in the following respects:

(a) To provide that if failure of the owner, before and at the beginning of the voyage, to exercise due diligence to make the ship seaworthy and properly to man, equip and supply the ship caused any loss, destruction or damage as set forth in Section 4283(a) of the Revised Statutes, limitation of such owner's liability shall be denied; and to provide that the burden of proof on the issue of causal connection rests upon the owner or petitioner;

(b) To provide that all vessels of whatsoever character and whatsoever description and wheresoever navigated shall be subject to the same law respecting limitation of shipowners' liability.

REPORT.

The Committee met in Washington, D. C., on December 3rd. It was of opinion that, in considering Safety at Sea, it should confine itself for the present to a study of the statutes relative to limitation of shipowners' liability. Some time prior to the meeting the Chairman had written various parties interested in the subject and invited them to appear and present their views at this meeting. One member of the Association appeared. The Committee canvassed this subject thoroughly and came to the conclusion that it is desirable that the statutes should be amended in the respect indicated in the above resolutions. The Committee is not aware of any sound reason why any vessels of any description navigating the inland waters should be accorded more favorable treatment in respect of the right to limit liability than are seagoing vessels, nor why some classes of seagoing vessels should be accorded more favorable treatment than are other classes.

The provisions of Section 4283(a) of the Revised Statutes grant limitation of liability if the damage, etc., was done without the privity or knowledge of such owner or owners. It was argued to your Committee that this provision as to privity and knowledge actually makes it to the interest of the shipowner not to inform himself as to the seaworthiness and proper manning, equipping and supplying his ship before and at the beginning of the voyage. The further argument was made that the statute should affirmatively make it the duty of the shipowner, before

and at the beginning of the voyage, to use due diligence to see that his ship was seaworthy and was properly manned, equipped and supplied. The Committee is of opinion that the resolution recommended makes proper provision for this, and also properly provides for the placing of all vessels, wheresoever navigated, on a parity with respect to the right to limit.

The Committee was of opinion that it would be well to call to the attention of the American Bar Association certain steps that had recently been taken by the Government to promote Safety at Sea. These are the ratification by the Senate of the 1929 Convention for Safety of Life at Sea, the Motorship Act extending Government inspection to motorships above 300 tons, the Coastwise Load Line Act, the Dangerous Cargo Act, the Direct Steering Act, the regulations for the Sprinkler System on passenger vessels, the Act reorganizing the Bureau of Marine Inspection and Navigation, the Personnel Bill and the regulations of November 11, 1936, of the Bureau of Marine Inspection and Navigation.

Respectfully submitted,

GEORGE H. TERRIBERRY, *Chairman*,
Whitney Bank Bldg., New Orleans, La.

CARL V. ESSERY,
Union Guardian Bldg., Detroit, Mich.

MARTIN HENRY LONG,
Barnett Nat'l Bank Bldg., Jacksonville, Fla.

JAMES W. RYAN,
99 John Street, New York City.

(Mr. George R. Farnum, a member of the Committee, took no part in this report, as he was absent from the country.)

NOTE—The officers of the American Bar Association for the year are:

FREDERICK H. STINCHFIELD, *President.*

GEORGE MAURICE MORRIS, *Chairman, House of Delegates.*

JOHN H. VOORHEES, *Treasurer.*

HARRY S. KNIGHT, *Secretary.*

CURTIS C. SHEARS, *Assistant Secretary.*

OLIVE G. RICKER, *Executive Secretary.*

The report is accompanied by the following letter:

New Orleans, Louisiana,
December 18, 1936.

ARNOLD W. KNAUTH, Esquire,
Secretary, The Maritime Law Association
of the United States,
80 Broad Street,
New York, New York.

My dear Mr. Knauth:

For the files of your Association, I am enclosing a copy of the report of my Committee, which was sent to the American Bar Association yesterday. I beg to express the appreciation of my Committee of the kind co-operation of yourself. If your Association cares to comment on this report, I should be most interested to have the benefit of its judgment.

Very truly yours,

GEORGE H. TERRIBERRY,
Chairman.