DOCUMENT No. 234

May, 1937

MARITIME LAW ASSOCIATION OF THE UNITED STATES

ANNUAL MEETING — APRIL 30, 1937

The Thirty-eighth 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 30, 1937, at 8 P. M., following the regular Quarterly Meeting of the Executive Committee.

Present were: D. Roger Englar, President, presiding, Arnold W. Knauth, Secretary, and the following forty-four members:

Henry I. Bernard
George W. Betts, Jr.
Harold F. Birnbaum
George S. Brengle
Jas. Hy. Bruns
Ira A. Campbell
John Tilney Carpenter
William E. Collins
Henry P. Dart, Jr.
Oliver J. Du Four
Harold B. Finn
John J. Galey
Charles S. Haight
Charles W. Harvey
Christopher E. Heckman
Joseph W. Henderson
Charles R. Hickox
Roscoe H. Hupper
Joseph K. Inness
Stuart S. Janney
Dr. P. J. Kooiman
Leslie C. Krusen
Paul H. Lacques
Howard M. Long
Howard T. Long
Henry N. Longley
Leonard J. Matteson
Karl S. Mayhew
P. J. R. McEntegart
William H. McGrann
Thomas F. Mount
Alfred Ogden
Adrian J. O'Kane
F. Herbert Prem
Charles F. Quantrell
Edward A. Quinlan
Miss Elizabeth Robinson
E. Curtis Rouse
James W. Ryan
James N. Senecal
Eugene Underwood
Miles Wambaugh
Carver W. Wolfe
John W. R. Zisgen

constituting a quorum.

The reading of the minutes of the previous annual meeting and of the quarterly meetings of the Executive Committee was dispensed with. The annual reports of the Secretary and Treasurer were read and placed on file and are printed herewith.

Secretary's Report.

April 30, 1937.

The year's activities consisted of the Annual Meeting held on May 8, 1936; four regular quarterly Executive Committee meetings, a mid-winter dinner meeting on February 5th, and the preparation of the biennial list of members.

The text of the Limitation Laws, as amended June 5, 1936, was printed and distributed. A large number of copies of the Carriage of Goods Act have been distributed. A report has been received on the Convention for Salvage at Sea as between Aircraft and Vessels, and the International Maritime Committee was asked to consider the matter. The American Bar Association's Admiralty Committee has sought the views of our members as to proposals to amend the Shipowners' Liability Laws. The desired new rule as to protection of liens on vessels operated by receivers has been formulated and is now awaiting promulgation by the District Judges in the Southern District of New York. During the past year, the Safety at Sea Convention has been ratified, and bills are pending to adjust our laws to the convention and to enact the revised International High Seas Collision Rules; the American Bar Association's bill for extension of admiralty jurisdiction has been introduced into Congress; the Carriage of Goods by Sea Act has come into operation both here and in Canada; the laws relating to seamen, to the inspection of ships, and to the organization of investigations of disasters, have been radically revised; and an exhaustive report on safety has been made to the Senate by its committee of technical experts.

The deaths of Judge Harrington Putnam and of William J. Dean must be recorded with sorrow. The resignations of Samuel B. Adams (1918) of Savannah, Frederick Foster (1914) of Boston, William Van Wyck (1918) of New York, Henry H. Little (1910) of Norfolk and Robert Scott Hume (1922) of

Washington have been received. One member has been dropped for non-payment of dues.

The membership accordingly stands at 320 active, 52 associate and 10 honorary members.

Eleven new active members have been passed on by the Executive Committee and are to be elected at this meeting. Three new associate members are proposed.

Michigan and Yale Law Libraries have been added to the mailing list, making eleven libraries in all.

Giving effect to the elections, the total mailing list is accordingly 407.

Treasurer's Report.

BALANCE, APRIL 30, 1936		$ 607.78
RECEIPTS:		
Sale of Documents	$ 200.50	
Dues: Arrears	215.00	
Current, 1936-1937	1,340.00	
1937-1938	345.00	2,100.50
		$2,708.28
EXPENDITURES:		
Printing	$1,097.11	
Stationery	50.22	
Sales Tax	20.98	
Addressing and Mailing	147.27	
Documents	23.87	
Supper—May, 1936	15.16	
Dinner—February, 1937	366.16	
Binding Records	13.75	
Stenography and Postage	585.13	
International Maritime Committee	125.50	
American Maritime Cases	50.00	
Bank Charge	27.00	2,519.15
BALANCE		$ 186.13

Election of Members.

On recommendation of the Executive Committee, and on motion duly made and seconded, the following were elected:

ACTIVE

	Proposer
John R. Brown, Royston & Rayzor, Cotton Exchange Building, Houston, Texas.	Mr. Carl G. Stearns
Charles P. Buckley, Jr., 521 Fifth Avenue, New York, N. Y.	Mr. Howard M. Long
William M. Ferguson, Citizens Marine Jefferson Bank Building, 2501 Washington Avenue, Newport News, Virginia.	Mr. Stanley R. Wright
Howard T. Long, 2208 Packard Building, Philadelphia, Pennsylvania.	Mr. Howard M. Long
Edwin Longcope, Krusen, Evans, Shaw & Campbell, 1608 Walnut Street, Philadelphia, Pennsylvania.	Mr. Leslie C. Krusen
Charles L. Minor, Legal Dept., Southern Pacific Co., 165 Broadway, New York, N. Y.	Mr. Ezra G. B. Fox
Raymond E. Stefferson, Luckenbach Steamship Co., 120 Wall Street, New York, N. Y.	Mr. Harry D. Thirkield
J. Timmer, Isbrandtsen-Moller Co., 26 Broadway, New York, N. Y.	Mr. C. S. Haight, Jr.

ACTIVE (Continued)

	Proposer
Anthony Tyson, Hoey & Ellison, Marine Insurance Agents, 99 William Street, New York, N. Y.	Mr. Gregory S. Rivkins
Professor William H. White, Jr., Flordon, University of Virginia, Charlottesville, Virginia.	Mr. Edward R. Baird
Otto Wolff, Lewis, Wolff & Gourlay, 208 South 4th Street, Philadelphia, Pennsylvania.	Mr. Leslie C. Krusen

ASSOCIATE

Hon. John W. Clancy,
United States District Judge,
Southern District of New York.

Hon. Vincent L. Leibell,
United States District Judge,
Southern District of New York.

Hon. Samuel Mandelbaum,
United States District Judge,
Southern District of New York.

Committee Reports.

LIMITATION PRACTICE QUESTIONS—COSTS IN LIMITATION CONTESTS—FEES OF COMMISSIONERS TO RECEIVE CLAIMS.

Mr. Galey presented the following report:

Report of the Committee Appointed to Consider Proposed Changes in Practice in Limitation of Liability Proceedings.

The proposals referred to the Committee were as follows:

First: That the District Court or Supreme Court rules be changed so as to permit the trial court to fix counsel fees and ascertain expenses of various counsel for claimants and to assess or impose on claimants whose counsel do not actively participate in the litigation an equitable share of such costs and expenses.

Second: That the practice of filing claims with special commissioners to receive claims and objections be modified so as to permit the filing of claims directly with the Clerk of the Court and to eliminate the allowances to commissioners appointed by the Court to perform this service.

Third: That the practice with respect to filing objections to claims be changed so as to relieve the petitioner of filing such objections and of serving notice of such objections on proctors for the claimants.

As to the first proposal looking toward an equitable distribution of counsel fees and expenses amongst the claimants, the Committee has not been able to agree unanimously.

The view of the majority of the Committee is that the proposal should not be recommended to the Association.

It is urged in behalf of the proposal by those who favor it that the situation in limitation proceedings is not unlike that where an estate or fund is being administered in a court of equity or in the Surrogate's Court and allowances are made by the Court out of the fund or estate to counsel who have rendered services in preserving or enlarging the fund or in making it available to claimants.

In the view of the majority of the Committee this analogy has only a limited application in limitation proceedings. In limi-

tation proceedings, except where the right to limit is admitted, the litigation is often largely concerned not with enlarging or preserving the fund or making it available to claimants but with the question whether the claimants are entitled to recover their full damages regardless of the existence or amount of the fund. To the extent that the litigation in limitation proceedings is concerned with the right of the claimants to recover without limitation the same considerations apply as in any case where a number of plaintiffs or libellants are joined in prosecuting a single issue. It frequently happens that in such cases, and also in cases where defendants are joined in a litigation involving an issue of common interest to all of them, that the burden of the litigation is carried chiefly by counsel for one or more of the plaintiffs or defendants and that the rest are inactive. In such cases in the absence of agreement it is not the practice either in the State or Federal Courts to effect a compulsory apportionment of fees and expenses amongst the parties.

In proceedings of this kind, in the judgment of the majority, there is no feasible way of requiring one libellant, plaintiff or claimant, as the case may be, who is himself represented by an attorney, to contribute toward the fees or expenses of an attorney representing some other plaintiff, libellant or claimant because the latter may have been more energetic. Certainly no such burden could be imposed by any rule of court and the majority of the Committee is doubtful whether it could even be imposed by statute.

In so far as services rendered by counsel in limitation proceedings are concerned with making the fund available to claimants, that is, in establishing liability as distinguished from proving that the owner has no right to limit, the situation may be somewhat different. In such cases the Court in the administration of the fund might conceivably be authorized to allow out of the fund, where liability of the shipowners was established, counsel fees and expenses incurred in making the fund available to claimants. The majority of the Committee are of the opinion, however, that this could not be done without amendment of the provisions of the Judicial Code dealing with costs and that it is not expedient or desirable to urge such legislation.

In most of the limitation cases considered in the deliberations of the Committee, the limitation funds were comparatively small. The objective toward which the efforts of counsel were directed

in these cases was not the making of the limitation fund available to claimants but proof of the unlimited liability of the shipowner. The cases where there are a large number of inactive claimants and an extensive litigation exclusively over the fund itself are comparatively few and unimportant.

It is true that the amendments of 1935 and 1936 to the Limited Liability Statute impose a minimum liability of $60 per ton applicable to claims for loss of life and personal injury, but the Act of June 5, 1936, expressly provides that this increased sum shall "be available only for the payment of losses in respect of loss of life or bodily injury." This does not leave any room for counsel fees. The effect of these amendments to the Limitation Statutes, moreover, would be merely to increase the difficulties of the Court in making any allowance for counsel fees out of the fund in a case where both personal injury and loss of life claimants and property damage claimants participate in the same proceedings and the services of the counsel for property damage claimants are incidentally beneficial to loss of life and personal injury claimants or *vice versa*.

The majority of the Committee also believe that in limitation cases where all or large classes of the claimants are interested in proving substantially the same facts relating to the question of liability or right to limit, and where claimant's counsel all have the same standing in court, the knowledge that counsel might be rewarded out of the fund in proportion to the extent and value, real or apparent, of their services might result in wasteful duplication of work and expense in efforts to justify larger allowances. This might be injurious to the interest of all the claimants. The same knowledge might often also result in an unseemly contest between counsel for precedence at the trial or in handling the litigation and the Court would have no way of settling such a controversy as between claimants having the same status in the litigation. Moreover, conflicting application of various counsel for allowances for services in dealing with the same issues might place the Judges in a position where they would have to render invidious decisions, weighing and passing upon the respective merits of the services rendered by various firms or individual counsel all engaged in attempting to prove the same thing when the respective duties of such firms to their clients required as much energy and effort from one as the other. In this respect the services of counsel in a limitation proceeding where all the

claimants are trying to prove the same thing and have the same standing in court appears to the majority of the Committee different from services rendered by various counsel in an equity proceeding involving a fund or estate or in a proceeding in the Surrogate's Court involving an estate where the various lawyers usually have a different standing owing to the different relations of their clients to the litigation.

The majority of the Committee therefore recommends that the Association take no action on the first proposal above mentioned.

As to the second proposal, that commissioners for receiving claims in limitation proceedings be dispensed with, the Committee is also of the opinion that no action should be taken.

This proposal originated in the feeling on the part of several members of the Association that unreasonable requests for allowances had been made by commissioners receiving claims and performing the ministerial function of listing and filing them. When these requests for allowances have been objected to, compromises in a number of instances have been made which still allowed the Commissioner an excessive award.

While it would be possible in the opinion of the Committee under the provisions of Rule 52 of the Supreme Court Rules for the District Court by rule to provide for the filing of claims directly with the Clerk without the intervention of any commissioner, it is no doubt desirable that the claims be itemized in such form that they can be dealt with collectively in the course of the proceedings. The report of the commissioner is useful for this purpose. The Committee does not feel that the District Court would by rule feel inclined to impose on the Clerk of the Court the duty of itemizing and summarizing the claims and there are practical difficulties in the way of requiring the petitioner to perform this service.

The Committee, therefore, feels that the commissioner to receive proofs of claims should be retained despite the fact that the fees allowed for the service of such commissioners have not always taken account of the fact that their services under the rules of the District Court are essentially clerical.

The most practical protection from overreaching in the matter of commissioners' fees seems to lie in the conscience and moderation of the Judges.

The third proposal was that Rule 35 of the Southern District and Eastern District Court be changed so as to relieve petitioners of the burden of filing objections to claims.

This rule, after providing for proof of claims before the commissioner on or before the return day of the monition, contains the following provision with respect to objections:

> "Such proof shall be deemed sufficient unless within two weeks after the return day of the monition or within such further time as may be allowed the claim shall be objected to by the petitioner or by some other creditor filing a claim, who shall give notice in writing of such objection to the commissioner or to the proctors, if any, representing the claim objected to."

It has usually been the practice for petitioners to file separate objections in the same form to each claim. This practice in a proceeding where there are a number of claims involves considerable paper work.

The Committee is of the opinion that within the terms of the rule the petitioner could escape some of this burden by filing a single objection to all the claims presented before the return day, provided the objection identified each of the claims objected to. This, of course, does not relieve the petitioner of the necessity, under the rule, of serving a notice of objection on the proctors for each of the claimants; and in cases where the Court permits the filing of claims after the return day, additional objections are required to be both filed and served.

While the filing of any objection by the petitioner (as distinguished from the claimants), as well as the serving by the petitioners of notices of objection on all the proctors for claimants could, in the judgment of the Committee, properly be dispensed with by an amendment of Rule 35, the Committee does not believe that the burden imposed on the petitioner by the rule in its present form is sufficiently onerous to justify a special and separate application to the District Court Judges to consider a modification of the rule.

Any reform in this respect might well await an occasion when other changes in the rules are being asked for. Such an occasion may possibly arise in connection with the reform of the Supreme

Court and District Court rules to import the desirable features of the New Proposed Federal Rules of Civil Procedure into the Admiralty Rules.

JOHN L. GALEY,
Chairman,
ROGER B. SIDDALL,
ARNOLD W. KNAUTH,
F. HERBERT PREM.

Miss Robinson, a member of the Committee, stated that she opposed the majority report only as to the first point; she urged that the interests of clients would be served by permitting the trial court to fix counsel fees, ascertain expenses, and assess or impose on all claimants an equitable share of such costs and expenses. Those who have expended sums to prove liability and make the fund available should, in her opinion, be allowed to recoup that expense incurred for the benefit of those who are inactive. *Hartford Accident Co.* v. *Southern Pacific* (the *Bolikow*) and other cases have shown the need of such a power. It is the function of courts to determine what parties are entitled to recover and how much they shall recover. This is often done in equity and can equally be done in admiralty. Mr. Betts, in support of Miss Robinson's views, urged that the point required more consideration. On motion of Mr. Mattison, seconded by Mr. Long, the report was accepted.

EXTENSION OF ADMIRALTY JURISDICTION.

Mr. Hickox presented the following report:

28th April, 1937.

The committee to consider the bill (S. 680) introduced by Senator Copeland to extend admiralty jurisdiction recommends that the bill should be amended by eliminating the words "persons and", so as to read as follows:

> "That the admiralty and maritime jurisdiction of the United States shall extend to and include all cases of damage or injury to property done or consummated on land by a vessel in navigable waters."

A majority of the committee recommends that an effort should be made to have the bill so amended passed, as there seems to be a general demand that some such measure be enacted.

The best information that the committee has been able to get, indicates that there are comparatively few instances of injury to any person on land by a vessel. A stevedore who may be so injured, is taken care of by the Workmen's Compensation Act of the state.

After Senator Copeland's bill had been introduced, opposition developed against the inclusion of persons in the act, and apparently the act has not made any progress toward passage. If the proposed act is amended so as to eliminate this controversial feature about persons, there may be a better prospect of having the act passed by Congress.

A bill has been introduced in the House of Representatives by Mr. Kenney on the 26th April, 1937, H. R. 6658, which is similar to the Copeland bill, but does not contain any reference to injury to persons. That bill provides:

> "That the admiralty and maritime jurisdiction of the United States shall extend to and include all cases of damage or injury to property done or consummated on land by a vessel in navigable waters.
>
> "In any such case, suit may be brought *in rem* or *in personam* according to the principles of law and the rules of practice obtaining in cases where the injury or damage has been done and consummated on navigable water."

The foregoing bill is in accordance with recommendation made by the Committee on Admiralty of the Association of the Bar and such recommendation has been approved at a meeting of the Association.

I do not join in the recommendation of the Committee for the passage of the act, for I feel that under the decisions of the Supreme Court, the doubts about the constitutionality of such legislation are too serious to warrant the enactment.

The principal decisions supporting such doubts are these:

In *Johnson* v. *Chicago Elevator Company,* 1886, 119 U. S. 388, the jib-boom of a schooner that was being towed in the Chicago River penetrated the wall of a warehouse whereby a quantity of corn ran out and was lost in the river. An action was brought in the state court in Illinois to enforce a lien under

the state statute against the vessel and judgment was recovered. The Supreme Court said, p. 399:

> "There being no lien on the tug by the maritime law for the injury on land inflicted in this case, the state could create such a lien, therefore, as it deemed expedient."

In *Martin* v. *West,* 1911, 222 U. S. 191, there was a collision between a steamer and a supporting pier of a toll drawbridge over the Chehalis River, a navigable stream flowing in Washington into the Pacific Ocean. The owner of the bridge brought suit under the state statute to enforce a lien against the vessel and obtained judgment which was affirmed by the Supreme Court.

It was claimed by the owner of the vessel that the injury on account of which the lien was asserted, was a maritime tort as the collapsing span of the bridge fell into the river and the substance and consummation of the wrong took place there so that the cause of action was within the exclusive admiralty jurisdiction of the United States. This argument was not accepted.

The court said that the fact that the span fell into the river "furnishes no criterion for determining whether the tort was maritime or non-maritime, because that question must be resolved according to the locality or character of the injured thing—the bridge with its span and supporting piers—at the time of the collision. * * * As the bridge was essentially a land structure maintained and used as an aid to commerce on land, its locality and character was such that the tort was non-maritime."

In *Smith* v. *Taylor,* 1928, 276 U. S. 179, a longshoreman employed in unloading a vessel at a dock, was standing upon a stage that rested solely upon the wharf and projected a few feet over the water to or near the vessel. He was struck by a sling loaded with cargo which was being lowered by the vessel's winch over the vessel's side and he was knocked into the water where some time later he was found dead. It was urged that the suit was solely for the death which occurred in the water and hence that the case was exclusively within the admiralty jurisdiction. The court held the argument to be untenable and said, p. 182:

> "The blow by the sling was what gave rise to the cause of action. It was given and took effect while deceased was upon the land. It was the sole, immediate and proximate cause of his death. *The G. R. Booth,* 171 U. S. 450, 460. The substance and consummation of the occurrence

> which gave rise to the cause of action took place on land. *The Plymouth, supra.* This case cannot be distinguished from *Johnson* v. *Chicago Elevator Company,* 119 U. S. 388, 397, or *Martin* v. *West,* 222 U. S. 191, 196. The contention of plaintiff in error is without merit."

It was accordingly held that the state law was applicable and a judgment of the state court affirming a recovery under the State Workmen's Compensation Law was affirmed.

That decision was mentioned and approved by the Supreme Court in the case of *Minnie* v. *Port Huron Terminal Company,* 1935, 295 U. S. 647. That case was the converse of *Smith* v. *Taylor* and held that a longshoreman who was working upon the deck of a vessel and was struck by a swinging hoist and precipitated upon the wharf, was not entitled to compensation under the law of the state.

In *The Admiral Peoples,* 1935, 295 U. S. 649, a passenger on the ship while disembarking at Portland, was injured by falling from a gangplank leading from the vessel to the dock. It was held that the libel presented a case within the jurisdiction of admiralty. The court said:

> "This is one of the border cases involving the close distinctions which from time to time are necessary in applying the principles governing the admiralty jurisdiction. That jurisdiction in cases of tort depends upon the locality of the injury. It does not extend to injuries caused by a vessel to persons or property on the land. Where the cause of action arises upon the land, the state law is applicable. *The Plymouth,* 3 Wall. 20, 33; *Johnson* v. *Chicago and Pacific Elevator Co.,* 119 U. S. 388, 397; *Cleveland Terminal R. R. Co.* v. *Cleveland Steamship Co.,* 208 U. S. 316, 319; *Atlantic Transport Co.* v. *Imbrovek,* 234 U. S. 52, 59; *State Industrial Commission* v. *Norden Holt Company,* 259 U. S. 263, 272; *Smith & Son* v. *Taylor,* 276 U. S. 179, 181; compare *Vancouver SS. Co.* v. *Rice,* 288 U. S. 445, 448."

The gangplank was considered an extension of the vessel and the cause of action was stated to have arisen upon the vessel.

These decisions of the Supreme Court reaffirm the statement that jurisdiction in cases of tort depends upon the locality of the

injury and that admiralty jurisdiction does not extend to injuries caused by a vessel to persons or property on the land.

In *The Blackheath,* 1904, 195 U. S. 361, the court said that a libel *in rem* could be maintained for damages caused by a vessel negligently running into a beacon attached to the ground but emerging from the water and constituting an aid to navigation. The court decided the case on its interpretation of admiralty jurisdiction in consideration of the particular facts and without "encountering *The Plymouth* or any other authority binding on this court." It was said, however, p. 365:

> "But Congress cannot enlarge the constitutional grant of power, and, therefore if it could permit a libel to be maintained, one can be maintained now."

While it is always problematical what the Supreme Court will do, it is difficult to see what basis there can be for the suggestion that an act of Congress can cause the court to alter a well-established rule of law and say that jurisdiction in cases of tort does not depend on the locality of the injury and, indeed, that an injury that takes place wholly on the land really takes place on navigable waters.

Mr. Houston feels that there is some doubt whether the proposed act would be constitutional, but recommends that a statute be passed so as to test the question.

Mr. Betts has not any doubt about the constitutionality of the proposed statute and recommends that its passage be urged.

Respectfully submitted,

CHARLES R. HICKOX
For the Committee.

Mr. Ryan stated that the Preferred Ship Mortgage case (*Detroit Trust Co.* v. *Barlum,* [1932] 293 U. S. 21) had encouraged general hopes that the extension of admiralty jurisdiction would be approved by the Supreme Court; and that several text writers, notably our member, Mr. George R. Farnum of Boston, had written articles in various law reviews urging this reform.

After some further discussion, on motion of Mr. Ryan, seconded by Mr. Mattison, the recommendation of the majority was adopted.

American Bar Association Consideration of Shipowners' Liability of Limitation Laws.

The Secretary read the following report:

April 27, 1937.

The undersigned were appointed a Committee to recommend to the Association what position the Association ought to take with respect to the report of the American Bar Association's Standing Committee on Admiralty and Maritime Law recommending certain amendments to our present Limitation of Liability statutes. A copy of the Report of the American Bar Association's Committee was circulated on December 28, 1936, as Document 231.

With respect to the Report above referred to, Geo. H. Terriberry, Esq., Chairman of the Committee, has addressed a letter dated March 31, 1937, to the Maritime Law Association of the United States, a copy of which has been circulated as Document 233.

In brief, Mr. Terriberry's letter extends an invitation to the members of the Maritime Law Association and urges our members to appear before his Committee and present argument, either written or oral, and either for or against the recommendations contained in the Report of his Committee on the subject of Limitation of Shipowners' Liability.

It is to be observed that the invitation is extended to our members individually, and not to the Association as such.

We think that the question of what amendment, if any, should be made to our Limitation of Liability law is one upon which our membership would divide sharply. Consequently, we feel that a majority either way would not be sufficient to warrant stating that the view adopted would be the view of the whole Association. Your Committee feels that because of this situation the Association as a whole should not attempt to make any recommendation on this subject, but that each member should be left to express his own views to Chairman Terriberry, as he requests.

Respectfully submitted,

Cletus Keating,
T. Catesby Jones,
John W. Griffin.

A motion to accept the report was made and seconded. Mr. Ryan, a member of the American Bar Association's Committee, stated that the Committee desired the considered view of the Maritime Law Association through a committee of nation-wide scope. Mr. Campbell expressed the hope that the Association would adopt the Committee's report; the limitation laws having just been extensively revised, further efforts to revise them should be postponed until there had been more experience under the laws in their present form, and after adequate time for full consideration. After further debate, Mr. Ryan moved that the Committee report be laid on the table; the motion being seconded, a vote by show of hands showed the meeting evenly divided. The motion was accordingly lost. Upon motion duly made and seconded to adopt the Committee report, a vote by show of hands showed that the motion was defeated by two votes. Mr. Ryan thereupon moved

> That the President appoint a committee of eleven members representing the Admiralty Bar throughout the United States to consider the laws in respect of shipowner's liability and report to the Association with all convenient speed.

The motion was seconded by Mr. Long. After further discussion, upon a vote by show of hands, there was a clear majority in favor of the motion.

International Collision Rules.

The Secretary presented the following resolution on behalf of the Executive Committee:

> "Resolved that Annex II of the Safety Convention, being revised international rules for the prevention of collisions at sea, should be put in effect and that Senator Copeland's bill, S. No. 1273, for that purpose is endorsed and approved on the understanding that it is in every respect identical with Annex II of the Safety Convention."

On motion of Mr. Betts, seconded by Mr. Haight, the resolution was adopted without opposition.

REVISION OF RULES OF PROCEDURE.

Mr. Hickox presented the following report:

28th April, 1937.

Some time ago you appointed me chairman of a committee to consider the Preliminary Draft of Rules of Civil Procedure for the District Courts, recently recommended by a special committee appointed by the Supreme Court. You asked that the committee should consider whether any of these rules should be made applicable to the Admiralty Practice or, in the alternative, whether any of the grounds covered by those rules should be covered by new Admiralty Rules, with particular reference to the examination of adverse parties before trial.

I have communicated with all the members of the committee. It seems to be the general view of the committee that we should wait until the Supreme Court has dealt with the proposed new Rules of Civil Procedure so that we can see just how the matter is treated in those rules. I understand that the Supreme Court has not acted on the proposed draft.

The question of examination of parties before trial in admiralty is one on which there is considerable divergence of opinion and the matter needs to be considered so as to obtain as general an expression of opinion as seems feasible.

For that reason, the present committee is not in a position to make any more definite report at this time.

Very truly yours,

CHARLES R. HICKOX
For the Committee.

Memorial to Judge Putnam.

Mr. Haight read a memorial to Judge Harrington Putnam, the President of this Association in 1911. On motion, the memorial was received and ordered spread upon the minutes. It is printed as a separate document herewith.

New Business.

Mr. Carpenter suggested enlarging the scope of Mr. Hickox's Committee on Rules of Procedure, to include an investigation of the matter of bills of particulars, and also to make possible a preliminary ascertainment whether any damages exist. Mr. Hickox stated that he would welcome all suggestions, particularly if submitted in writing.

Inland Rules.

Mr. McGrann asked that the Committee on the Revision of the Inland Rules should be expanded by empowering your President to add two more members to the committee, and that the committee should be continued, which, upon motion duly made and seconded, was authorized.

Nominations.

Mr. Hickox, on behalf of the Nominating Committee, presented the following nominations:

For President—D. Roger Englar.

For Vice-President—Stuart S. Janney.

For Secretary and Treasurer—George C. Sprague.

Members of the Executive Committee serving for three years:

Roscoe H. Hupper,
Edward B. Baird, Jr.,
Earle Farwell.

The nominations being closed, the foregoing were elected upon ballot cast by the Secretary, and the meeting thereupon adjourned.

ARNOLD W. KNAUTH,
Secretary.

OFFICERS

of the

MARITIME LAW ASSOCIATION

1937 - 1938

President: D. ROGER ENGLAR.

Vice-President: STUART S. JANNEY.

Secretary-Treasurer: GEORGE C. SPRAGUE,
117 Liberty Street, New York City

Executive Committee, Term Ending May, 1938:

JAMES HENRY BRUNS (New Orleans),

JOSEPH W. HENDERSON (Philadelphia),

JOHN W. GRIFFIN (New York).

Term Ending May, 1939:

CHARLES S. BOLSTER (Boston),

JOHN J. GALEY (New York),

CLEMENT C. RINEHART (New York).

Term Ending May, 1940:

ROSCOE H. HUPPER (New York),

EDWARD B. BAIRD, JR. (Norfolk),

EARLE FARWELL (New York).

LIST OF COMMITTEES

The President of the Association has appointed members of the Committees as authorized by the action of the annual meeting of April 30, 1937, as follows:

Committee on Revision of the Inland Rules:

CHAUNCEY I. CLARK
LEONARD J. MATTESON
(to be added to the present Committee)

Committee on Limitation of Shipowners' Liability:

STUART S. JANNEY, *Chairman*
CLETUS KEATING
ROSCOE H. HUPPER
T. CATESBY JONES
JOHN C. PRIZER
WILLIAM J. CONLEN
ALBERT T. GOULD
CARL V. ESSERY
HENRY P. DART, JR.
LAWRENCE BOGLE
FARNHAM P. GRIFFITHS

Members of the Association are advised that The Brussels Convention of 1910 for the unification of rules concerning apportionment of collision liability according to fault is now before the Foreign Affairs Committee of the United States Senate. The official text of the Convention which is before the Foreign Affairs Committee is not available because of the "ban of secrecy which is placed on the text of all treaties and conventions during consideration by the Committee." An unofficial translation of the Convention is attached to the report of the American Delegates and is contained in Document No. 161 of this Association, dated April, 1930, at pages 1725 to 1729, and is understood to vary only in unimportant respects from an official translation made by the Department of State. The history of the proceedings and actions of this Association on this subject is contained both in Documents Nos. 161 (*supra*) and 164, the latter of which is dated May 2, 1930.

GEORGE C. SPRAGUE,
Secretary.

New York, June 15, 1937.