

DEAR SIR:

There will be a special meeting of the MARITIME LAW ASSOCIATION held at the rooms of the Bar Association, 42 West 44th Street, on December 4, 1908, at three o'clock, to consider the report of the Committee appointed May 15, 1908, to prepare a bill to regulate and make uniform the rights of persons furnishing to or for a vessel supplies, repairs and other necessities.

The proposed bill is set forth below.

EDWARD GRENVILLE BENEDICT,
Secretary.

An Act to Regulate and Make Uniform the Rights of Persons Furnishing to or for a Vessel, Repairs, Supplies or other Necessaries.

SECTION 1.

Any person furnishing repairs, supplies or other necessities to a vessel, whether foreign or domestic, upon the order of the owner or owners of such vessel, or of a person by him or them authorized, shall have a maritime lien on the vessel which may be enforced by a proceeding *in rem*.

SECTION 2.

The following persons shall be presumed to have authority from the owner or owners to procure repairs, supplies and other necessities for the vessel. (1) The managing owner, ship's husband or any person to whom the management of the vessel at the port of supply is intrusted. (2) The master, chief engineer or chief steward actually serving on board the vessel; but the authority of such engineer or steward shall be deemed to extend only to the procuring of such necessities as are usually and reasonably required in their respective departments.

No person tortiously or unlawfully in possession or charge of a vessel shall have authority to bind the vessel.

SECTION 3.

The officers and agents of a vessel specified in Section 2 shall be taken to include such officers and agents when appointed by a charterer, by an owner *pro hac vice*, or by an agreed purchaser in possession of the vessel, but nothing in this Act shall be construed to confer a lien when the materialman knew, or by the exercise of reasonable diligence could have ascertained, that because of the terms of a charter party, agreement for sale of the vessel, or for any other reason, the person ordering the repairs, supplies or other necessities was without authority to bind the vessel therefor.

SECTION 4.

Nothing in this Act shall be construed to prevent a materialman from waiving his right to a lien at any time by agreement or otherwise, and this Act shall not be construed to affect the rules of law now existing: (1) in regard to the right to proceed against a vessel for advances, (2) in regard to laches in the enforcement of liens on vessels, (3) in regard to the priority or rank of such liens, and (4) in regard to the right to proceed *in personam*.

SECTION 5.

This Act shall supersede the provisions of all State Statutes conferring liens on vessels in so far as the same purport to create rights of action against vessels for repairs, supplies and other necessities.

SECTION 6.

This Act shall take effect upon its passage.

Mr. Hughes, of the Committee, is of opinion that the following section should be inserted in the Act between Sections 1 and 2, viz:

There shall be no claim against a vessel for repairs, supplies or other necessities unless they are apparently and reasonably required for its use and are actually used for its benefit; but if they are ordered or contracted for by any of the persons hereinafter named as authorized to bind the vessel, the presumption shall be that they are so used, and the burden to disprove their use shall be upon the party denying such use.