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# THE MARITIME LAW ASSOCIATION OF THE UNITED STATES

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REPORT OF SPECIAL COMMITTEE ON S. 3655 EXTENDING THE JONES ACT TO SEAMEN ON FOREIGN VESSELS, ETC., WHICH WILL COME BEFORE THE ANNUAL MEETING OF THE ASSOCIATION FOR ACTION ON MAY 6TH.

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The Bill on which your Committee was requested to report was introduced in the Senate March 22, 1940, by Senator Sheppard. It is entitled "A Bill relating to personal injury suits by seamen, and to amend the Act of March 4, 1915," etc. It leaves unchanged all of the Jones Act up to the clause providing for jurisdiction, which is now to the effect that jurisdiction shall be under the court of the district in which the defendant employer resides, or in which his principal office is located. Instead of this clause is substituted one, the meaning of which is incomprehensible:

> "SEC. 2. Jurisdiction in such cases may be exercised concurrently by the district court in common law in personam against the employer."

This is followed by a further Section 3, extending the jurisdiction to the district or state in which the defendant employer resides or has an office or agent, or in case of a foreign vessel, where the owner has its principal office or agent, and where there is no resident agent in the district where the foreign vessel is found, in which case summons may be served on the master of the vessel.

The principal provision of this Bill is, however, contained in Section 4. This provides that the Act shall apply "to seamen employed on foreign flag vessels that are *owned, chartered, or operated and managed by persons, firms, or corporations, foreign or domestic, as to all injuries occurring while such vessels are within the maritime and judicial jurisdiction of the United States, at all times while they are engaged in competitive commerce or trading between ports of foreign countries and ports of the United States in competition with vessels operated under the flag of the United States.*"

This is a renewal of an attempt made by a Bill introduced in 1938, which made the application of the Jones Act a condition of entry of foreign vessels.

The provision would radically alter the existing law by extending the Jones Act to seamen employed on foreign flag vessels, apparently whether they are American or foreign seamen, and making it mandatory upon the courts to entertain such actions.

At present the law is well settled, of course, to the effect that the Jones Act does not extend to foreign seamen, and that it is within the discretion of the district court to entertain suits involving foreign seamen and foreign vessels even though the injury occurs in American waters. Among the numerous cases on the subject is *The Paula—Peters* v. *SS. Paula,* 1937 A. M. C. 988, 91 Fed. (2) 1001 (C. C. A. 2), cert. denied 302 U. S. 750, in which the law on the subject is generally reviewed. See also *The Milwaukee,* 1935 A. M. C. 718, in which the Supreme Court denied certiorari in a similar situation. A recent decision is *The Frieda,* 1940 A. M. C. 220.

Aside from the obviously poor draftsmanship of the Bill, it should be opposed for substantial reasons:

1. It would substitute for the present discretionary power of the court to entertain such actions a mandatory provision requiring them to take jurisdiction. Under the present law the courts have entertained suits where to decline jurisdiction would effect a hardship upon the seaman. To force upon the courts all these negligence actions between aliens would add to the congestion.

2. The Bill would interfere with the compensation statutes of foreign countries, and perhaps invite retaliation by those countries against our shipowners. In numerous cases the courts have declined jurisdiction upon a showing by the Consuls of the nationals involved that, under such foreign laws, injured seamen are entitled to compensation.

3. It is doubtful whether the United States has the sovereign power to determine what cause of action a foreign seaman on a foreign ship has for injuries occurring on the high seas or in foreign territorial waters or anywhere outside of the territorial jurisdiction of the United States. An attempt to exercise any such jurisdiction should not, in our opinion, be made.

Respectfully submitted,

VERNON S. JONES, *Chairman;*
ARTHUR M. BOAL,
WILLIAM E. COLLINS.

April 22, 1940.

## Report of Special Committee on H. R. 7637 "Relative to Liability of Vessels in Collision," Which Report Was Accepted by the Executive Committee at Its Meeting on March 11, 1940.

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The undersigned Committee appointed by you January 25th last have met and considered the bill introduced by Mr. Bland in the House of Representatives January 3, 1940 (H. R. 7637), "Relative to liability of vessels in collision."

It is the opinion of the Committee, and they so report hereby to you, that:

1. The Bland Bill is apparently an outgrowth of the attempt to ratify the Brussels Convention of September 23, 1910. It will be recalled that the Brussels Convention was reported by the Committee on Foreign Relations to the Senate on June 15, 1939, with a recommendation that it should be ratified. Your Committee believes that the subject matter of the Brussels Convention is not one which should be dealt with by treaty.

2. The present disturbed conditions affecting American shipping, and in fact that of all nations, with new problems and uncertainties developing almost daily, make it inadvisable at this time to attempt to revamp American law with respect to collisions.

3. Your Committee, therefore, is opposed to the ratification of the Brussels Convention of September 23, 1910, and is opposed to all legislation, including the Bland Bill, which would attempt to revise our law respecting collisions, at least until the matter can be considered against the background of peace and normal conditions.

Respectfully submitted,

Cleatus Keating,
D. Roger Englar,
Roscoe H. Hupper, *Chairman.*