

May, 1940.

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

ANNUAL MEETING — MAY 6, 1940

The Forty-first Annual Meeting of the Association was held at the House of the Association of the Bar of the City of New York on Monday, May 6, 1940, at 4 P. M., following the regular Quarterly Meeting of the Executive Committee.

Present: Farnham P. Griffiths, Vice-President, George C. Sprague, Secretary and Treasurer, and the following forty-two members:

Horace T. Atkins	V. S. Jones
Ray Rood Allen	A. W. Knauth
Reese D. Alsop	George M. Lanning
Charles S. Bolster	L. Vernon Miller
Geo. Whitefield Betts, Jr.	L. J. Matteson
R. J. Baker	R. T. Mount
Arthur M. Boal	Thomas H. Middleton
John W. Crandall	James H. Molloy
Ira A. Campbell	P. J. McEntegart
William E. Collins	L. S. Parsons
Theodore R. Dankmeyer	Edward A. Quinlan
Seymour P. Edgerton	Gregory S. Rivkins
Ira L. Ewers	Paul Speer
Irving H. Frank	G. Noyes Slayton
Morris Douw Ferris	John B. Shaw
Earle Farwell	John H. Skeen
Charles Hann, Jr.	George W. P. Whip
Oscar R. Houston	Otto Wolff, Jr.
John Hemphill	William H. Wooley
Nicholas J. Healy, 3rd	Burton H. White
T. Catesby Jones	Frank J. Zito

constituting a quorum.

In the absence of the President Charles R. Hickox, on account of illness, the Vice-President Farnham P. Griffiths presided.

The reading of the Minutes of the Annual Meeting of May 8, 1939, which had been printed as Document No. 248 and distributed to the members, was, upon motion duly made, seconded and carried, dispensed with.

The reading of the Minutes of the quarterly meetings of the Executive Committee during the year—namely, October 18, 1939, January 24, 1940, March 11, 1940, and May 6, 1940—was, upon motion duly made, seconded and carried, dispensed with inasmuch as the principal matters transacted at said meetings are included in the report of the Secretary.

The annual reports of the Secretary and Treasurer were read, and, upon motion duly made, seconded and carried, were approved and ordered placed on file and printed. They are as follows:

Treasurer's Report

May 6, 1940

AMOUNT ON DEPOSIT MAY 8, 1939..... \$1,816.09

RECEPITS:

Sale of Documents.....	\$ 3.10	
Sale of American Maritime Cases Reports from 1923 to date.....	200.00	
Refund of Subscription to American Mari- time Cases from \$50 to \$40.....	10.00	
Dues — Arrears.....	70.00	
1939-40.....	970.00	
1940-41.....	290.00	
1939 Dinner (received after annual meet- ing).....	30.00	
1940 Dinner (to date).....	628.00	2,201.10
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\$4,017.19

EXPENDITURES:

1939 Dinner—At University Club:		
By Subscription.....	\$610.00	
From General Funds.....	256.47	\$866.47
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Printing.....	200.05	
Stationery.....	41.00	
Clerical, typewriting, postage, addressing..	498.68	
Binding M. L. A. Documents.....	1.50	
To Mr. Arnold Knauth for 400 copies of Translation of Convention for Unifica- tion of Rules Relating to Assistance or Salvage of Aircraft, etc., used as Docu- ment No. 244.....	25.00	
Superintendent of Documents, Washington (to replenish Deposit A/c No. 2996).....	10.00	
Sales Taxes.....	4.80	1,647.50
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AMOUNT ON DEPOSIT MAY 6, 1940..... \$2,369.69

FURTHER EXPENDITURES APPROVED AT MEETING OF
EXECUTIVE COMMITTEE MAY 6, 1940:

Contribution to International Maritime Committee (1939-40).....	\$ 125.00	
Anticipated Cost of Annual Dinner (May 6, 1940) from General Funds (Subscription as above \$628 plus probable charge on General Funds of, say, \$400).....	1,028.00	1,153.00
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\$1,216.69

Secretary's Report for the Year 1940-1

The year's activities consisted of the annual meeting held at 4 P. M. May 8, 1939, followed by the annual dinner at The University Club. The annual dinner was in honor of Judge Augustus N. Hand who, in 1939, completed twenty-five years of service as District Judge and Circuit Judge of the United States. The dinner was attended by 122 members of the Association, while 21 Federal Judges were our guests.

There have been four regular meetings of the Executive Committee: on October 18, 1939, January 24, March 11 and May 6, 1940.

At the October meeting the question of the Association's subscription to American Maritime Cases was presented, and, it appearing that the bound volumes belonging to the Association were not frequently used, the Secretary was instructed to ascertain the sale value thereof. At the January meeting an offer of \$100 from the National Law Book Company of Washington was submitted, but the Committee declined this offer. The Committee agreed that, if an offer of \$200 could be obtained, the Secretary be authorized to accept it. On March 18, 1940, an offer of \$200 for the set having been received, it was accepted and the set duly sold.

At the January meeting discussion was had on H. R. 7637 relative to liability of vessels in collision, introduced by Mr. Bland on January 3, 1940, and referred to the Committee on Merchant Marine and Fisheries. Each member of the Committee was supplied with a copy of the bill, together with a copy of "Comparative Committee Print—LIABILITY OF VESSELS IN COLLISION—Comparing the Brussels Convention, the Present Law, and the Proposed Bill"; also with a copy of Executive Rept. No. 4 of the Senate dated June 15, 1939, being the report of the Committee on Foreign Relations reporting the Brussels Convention of 1910 favorably to the Senate "with recommendations that it advise and consent to its ratification." It was understood that no action had been taken on the report of the Foreign Relations Committee. It appeared that H. R. 7637 was in many respects contrary to the Brussels Convention, and, if enacted into law, would prevent ratification of said Convention as a treaty. In view of the fact that a resolution favoring the ratification of the Brussels Convention had twice been before the Association, on one of which

occasions said resolution was passed and approved and on the other was lost and not approved, the Committee voted that H. R. 7637, together with Senate Exec. Rept. No. 4, be submitted to a committee for examination and report. The President appointed Roscoe H. Hupper (Chairman), D. Roger Englar and Cletus Keating as such Committee. At the meeting of March 11th, Mr. Hupper reported in writing for this Committee and this report was accepted by the Executive Committee. This report has been printed and appears in Document No. 252, a copy of which has been sent to all members of the Association.

Bill S. 3655 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. The President appointed a special committee, consisting of Vernon S. Jones (Chairman), Arthur M. Boal and William E. Collins, to study this bill. The Committee reported to the President, under date of April 22, 1940, recommending that the bill be opposed. The report has been printed and appears in Document No. 252, a copy of which has been sent to the members of the Association.

The Executive Committee, as authorized by the Articles of Association, fixed May 6, 1940, at 4 P. M. as the date of the annual meeting and arranged that the annual dinner be held following the meeting at The University Club.

We record, with sorrow, the death of the following members during the year:

Archibald Matteson (1901)	Providence, R. I.	June 24, 1939
Horace L. Cheyney (1910)	Macklin, Brown, Lenahan & Speer, New York City	Aug. 27, 1939
R. C. Fulbright (1938)	Washington, D. C.	Mar. 31, 1940
Douglas V. Cox (1914)	Appleton & Cox, Inc. New York City	Apr. 9, 1940
Stuart S. Janney (1920) (Vice-President 1936-8)	Baltimore, Md.	Apr. 11, 1940

Honorary Members:

Robert M. Hughes, Sr. (1899)	Norfolk, Virginia	Jan. 15, 1940 (Age 86)
H. Pillans (1899)	Mobile, Alabama	Mar. 12, 1940

We were advised, under date of February 15, 1940, of the sudden death of Monsicur Albert Le Jeune, Vice-President of the Comité Maritime International.

The following resignations have been received:

Capt. Jas. H. Tomb, U.S.N. Retired (1935) September, 1939
Supt. State Nautical Academy, N. Y. C.

St. John Garwood, Houston, Texas May 1, 1939

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

21 active and 3 associate members were elected at the last annual meeting. The total active membership is 328; associate 56; honorary 10; libraries 15; or a total of 409.

The publications of the Association for the year have been as follows:

#248—Minutes of Annual Meeting May 8, 1939.

249—Addresses of the President Charles R. Hickox and Judge Augustus N. Hand at the annual dinner May 8, 1939.

250—Memorials to Earl Appleman and George B. Ogden.

251—Notice of Annual Meeting and Dinner for 1940.

252—Reports of Special Committees.

Respectfully submitted,

GEORGE C. SPRAGUE,
Secretary.

Dated: New York, May 6, 1940.

Election of Members

On recommendation of the Executive Committee, and on motion duly made, seconded and carried, the following named persons were elected members of the Association:

ACTIVE MEMBERS

	<i>Proposer</i>	<i>Secunder</i>
PAUL R. JANSEN Fulton P. & I. Underwriting Agency, Inc., 99 John Street, New York City	Leslie C. Krusen	John B. Shaw
MISS EDNA R. RAPALLO Hunt, Hill & Betts, 120 Broadway, New York City	Oscar R. Houston	George C. Sprague
HAROLD A. MOUZON 1 Broad Street, Charleston, S. C.	John H. Skeen	George W. P. Whip
HARVEY WIENKE Kremer, Branand & Hayes, 175 West Jackson Boulevard, Chicago, Ill.	Arnold W. Knauth	Robert Branand, Jr.
GLENN J. FAIRBROOK Fairbrook & Williams, Central Building, Seattle, Wash.	George C. Sprague	Allan A. Baillie
HENRY P. MOLLOY Wood, Molloy & France, 25 Broad Street, New York City	George W. Betts	John W. Crandall
EDWARD L. P. O'CONNOR Mahar & Mason, 25 Broadway, New York City	Frank C. Mason	Christopher E. Heckman
WALTER E. LAWLOR Mahar & Mason, 25 Broadway, New York City	Frank C. Mason	Christopher E. Heckman
CHARLES D. BURKINSHAW 70 Pine Street, New York City	A. Howard Neely	Stanley R. Wright
LEO F. HANAN Macklin, Brown, Lenahan & Speer, 99 John Street, New York City	Paul Speer	Richard F. Lenahan
GORDON SMITH Atlantic Mutual Ins. Co., 49 Wall Street, New York City	Ezra G. Benedict Fox	Oscar R. Houston

	<i>Proposer</i>	<i>Seconder</i>
MYRON H. AVERY U. S. Maritime Commission, 45 Broadway, New York City	William E. Collins	George C. Sprague
THOMAS H. WALSH 50 State Street, Boston, Mass.	Albert T. Gould	Charles S. Bolster
JOSEPH WALLACE CARNWATH Krusen, Evans & Shaw, 225 So. 15th Street, Phila., Pa.	John B. Shaw	Leslie C. Krusen
ANTHONY BLASI U. S. Maritime Commission, 45 Broadway, New York City	William E. Collins	Earle Farwell

Reports of Standing Committees

COMMITTEE ON EXTENSION OF ADMIRALTY JURISDICTION.

In the absence on account of illness of the Chairman of the Committee, Charles R. Hickox, Geo. Whitefield Betts, Jr. reported for the Committee in writing as follows:

Your Committee, supplementing its oral report at the last annual meeting of the Association, begs leave to report that its Chairman finally succeeded in getting Senator White of Maine to introduce in the Senate S. 2603, and Mr. Bruce Barton of New York to introduce in the House H. R. 6322, on June 13, 1939, and May 15, 1939, respectively. Both bills were referred to the Committee on the Judiciary in the respective Houses.

Nothing further was done in the Senate. Senator White wrote on April 19, 1940, that the Judiciary Committee had not done anything with the bill, and that he had been so engrossed with matters pending before Committees of which he was a member that he had not been pressing this legislation to the attention of the Judiciary Committee; that it was too late in this session to expect any action, and unless other arrangements were made, he would reintroduce the bill in the next session of Congress and make a real effort to get action of some sort upon it.

On February 28, 1940, Congressman Hobbs of Alabama, to whose sub-committee the bill had been referred, wrote Mr. Barton that his sub-committee had given intensive study to the bill and was thoroughly sympathetic with the desires of our Committee

and those of the American Bar Association and the Association of the Bar of the City of New York, but they thought the bill so much in need of amendment that they reported it back to the full Committee. The fears of the sub-committee were summarized as follows:

1. It would create liability of vessels operated by compulsory pilot. In rem.

2. Inclusion of "person" would enhance question of constitutionality. Our right to legislate is limited to maritime matters. Inclusion of "persons" might also compound benefits. Recovery under this bill might be added to the compensation under the Longshoremen's Compensation Act.

3. It would increase U. S. Government's liability under Suits in Admiralty Act (U. S. C. A., Title 46, Sec. 741) or Public Vessel Act (U. S. C. A., Title 46, Sec. 781).

Mr. Barton forwarded Mr. Hobbs' letter to your Committee's Chairman and he replied, pointing out:

1. That it would not affect the liability of vessels *in rem* operated by a compulsory pilot, but merely would extend the jurisdiction to a claim for damage done on land.

2. That the question of constitutionality would not be enhanced by the inclusion of the word "person" in the bill.

3. That the bill would not alter the situation that now exists so far as longshoremen's rights under the Compensation Act are concerned.

4. That the fear that the bill would increase the United States Government's liability under the Suits in Admiralty Act or Public Vessel Act did not seem to be a sound objection, the United States Maritime Commission having already approved the bill as the direct representative of the Government and it being difficult to see why, when the Government is engaged in the operation of commercial vessels, it should not be under the same liability as applied to private owners.

He also pointed out the fundamental difficulty in attempting to redraft the bill, since its form has been approved by the Mari-

time Law Association and the Committees of the American Bar Association and the Association of the Bar of the City of New York.

Later, by letter of April 20, 1940, the Clerk of the Judiciary Committee of the House advised a member of the Committee that the bill had been tabled by the Committee on February 27, 1940.

The only recourse, therefore, in the opinion of the Committee is to have the bill introduced again at the next session of Congress, in both Senate and House, in the meantime endeavoring to show Mr. Hobbs that his fears are not well grounded, and possibly to ask for a hearing before the House Judiciary Committee, if not the Senate Committee.

CHARLES R. HICKOX, *Chairman*
GEO. WHITEFIELD BETTS, JR.
OSCAR R. HOUSTON

Upon motion, duly made, seconded and carried, this report was accepted; the Committee continued and the officers and Executive Committee of the Association were instructed to take the necessary steps to have the bill reintroduced at the next session, in accordance therewith.

COMMITTEE ON FEDERAL RULES OF CIVIL PROCEDURE.

In the absence of the Chairman, Charles R. Hickox, Mr. Betts reported for this Committee as follows:

Supplementing the Committee's report to the 1939 annual meeting of the Association, your Committee begs leave to report that the Supreme Court, on May 22, 1939, entered an order effective September 1, 1939, amending the Supreme Court Rules in Admiralty by substituting for old Admiralty Rules 31 and 32, five new rules numbered respectively 31, 32, 32A, 32B and 32C, and by adding two new rules numbered 46A and 46B.

These new rules deal with interrogatories, discovery and production of documents and things, physical and mental examination, admissions of facts and genuineness of documents, consequences of refusal to make discovery or to comply with an order for same, expenses on refusal to admit, failure of a party to attend or serve answers or to respond to letters rogatory, expenses against the United States, scope of examination and cross-examination and record of excluded evidence.

These new rules include substantially all the recommendations of your Committee to the Supreme Court, with the exception of its recommendation of a rule as to when depositions may be taken. The Chief Justice evidently, as indicated in your Committee's previous report, thought that the suggested rule as to when depositions might be taken might conflict with the existing statutes such as R. S. §863. Accordingly in that respect it would appear that the law remains the same as it has been.

However, in new Admiralty Rule 32C, the Supreme Court has incorporated the provisions of the Rules of Civil Procedure dealing with the consequences of failure of a party to appear or answer on the taking of a deposition.

The new rules are substantially identical with the Rules of Civil Procedure for the District Courts dealing with the subject, with such immaterial variations as the numbering of the Rules and absence of jury cases require. On the whole we should consider the result eminently satisfactory.

CHARLES R. HICKOX, *Chairman*
GEO. WHITEFIELD BETTS, JR.
HENRY P. DART, JR.
T. CATESBY JONES

Upon motion, duly made, seconded and carried, the report was accepted and ordered filed and printed.

COMMITTEE ON SUPREME COURT ADMIRALTY RULE 46½.

T. Catesby Jones, Chairman, reported for this Committee, consisting of himself, John W. Griffin and L. DeGrove Potter, stating that the Committee had had a conference with Judge Learned Hand, Presiding Justice of the Circuit Court of Appeals for the Second Circuit, regarding the matter and that Judge Hand had called in several of his colleagues who were available for further discussion with the Committee. As a result of the conferences, the Committee, by Mr. Jones, proposed the adoption by the Association of the following preamble and resolutions, which, having been duly seconded, was unanimously adopted:

WHEREAS, it is the unanimous opinion of the members of the Maritime Law Association of the United States present at the annual meeting held on May 6, 1940, that the written opinion of

the District Court in admiralty cases presents the views of the District Judge more clearly and satisfactorily than formal findings; and

WHEREAS, such formal findings duplicate the opinion of the District Court and require a very considerable and unnecessary expenditure of time on the part of the District Judge, as well as of counsel; and

WHEREAS, the operation of Rule XLVI½ in admiralty cases has, in the unanimous opinion of the members of the Association present at this meeting, been unsatisfactory for the reasons above stated and

WHEREAS, in the opinion of the members of this Association a fairer and less technical set of findings is obtained by accepting the written opinion of the District Court as that Court's findings of fact and conclusions of law, leaving to any party the right to ask for additional findings, if they are desired;

NOW, THEREFORE, BE IT

RESOLVED that, in the opinion of this Association, it would promote the interests of justice if said Admiralty Rule XLVI½ were amended as hereinafter set forth; and it is

FURTHER RESOLVED that the presiding Judge of the United States Circuit Court of Appeals for the Second Circuit be requested to present to the council of the presiding Judges of the Circuit Courts of Appeals for their consideration an amendment of the rule to read as stated below, with the statement that the Maritime Law Association of the United States hopes that said amended rule may be submitted by them to the Supreme Court of the United States with the recommendation that it be adopted.

The suggested amendment is as follows:

“RULE XLVI½

FINDINGS OF FACT AND CONCLUSIONS OF LAW.

In deciding cases of admiralty and maritime jurisdiction the court of first instance shall find the facts specially and state separately its conclusions of law thereon; and its findings and conclusions shall be entered of record and,

if an appeal is taken from the decree, shall be included by the Clerk in the record which is certified to the appellate court under rule 49. It shall be deemed a compliance with the foregoing Rule if the court of first instance file a written opinion stating that it contains the court's findings of fact and conclusions of law, or if the decree shall so state. However, any party may propose further findings of fact and conclusions of law and the court shall pass thereon."

Upon motion, duly made and seconded, the Committee was continued for the purpose of following up this matter and the Secretary instructed to send a certified copy of the preamble and resolutions to Mr. Jones to be delivered to Judge Learned Hand. The Secretary was also instructed to prepare and send similar certified copies of preamble and resolutions to Charles S. Bolster of Boston with the request that he take the matter up with the Circuit Court of Appeals of the First Circuit; to Otto Wolff of Philadelphia with the request that he do likewise with the Circuit Court of Appeals for the Third Circuit; to Braden Vandeventer of Norfolk with the request that he do likewise with the Circuit Court of Appeals for the Fourth Circuit; to George Terribery of New Orleans with the request that he do likewise with the Circuit Court of Appeals for the Fifth Circuit; to Carl V. Essery of Detroit with the request that he do likewise with the Circuit Court of Appeals for the Sixth Circuit; to Farnham Griffiths of San Francisco with the request that he do likewise with the Circuit Court of Appeals for the Ninth Circuit.

COMMITTEE ON AVIATION AND ADMIRALTY.

Arnold Knauth, Chairman of this Committee, consisting of himself, William E. Collins, Joseph Luley, Burton H. White and Robert W. Williams, presented a written report including text of a proposed bill which he suggested be printed and circulated among the members. On motion, duly made, seconded and carried, it was voted that this report be received for printing and circulation, and that further action thereon be deferred until the next meeting of the Association. The report is published and circulated as Document No. 254.

Reports of Special Committees

COMMITTEE ON BILL TO AMEND THE JUDICIAL CODE ON STATUTES OF LIMITATION OF CLAIMS AGAINST THE UNITED STATES AND BILL TO ESTABLISH A UNITED STATES ADMINISTRATIVE COURT.

Oscar R. Houston reported in writing for this Committee, in so far as S. 197 with respect to limitation of claims against the United States was concerned, recommending that the bill be opposed, and, upon motion, duly made and seconded, it was voted that the report be accepted and the recommendation adopted. The Committee was continued for the purpose of taking steps to make effective the action of the Association. The report reads as follows:

This bill (S. 197 to amend the Judicial Code in respect to claims against the United States for just compensation) provides that every claim against the United States, cognizable by the Court of Claims, shall be barred unless the suit is brought within six years after the claim accrues, with certain exceptions relating to married women, etc. The second section of the bill provides that every claim against the United States for just compensation for property taken, or for the use by the United States of an invention, shall be barred unless suit is brought within one year after the claim first accrued. This is subject to the further proviso that the claimant may nevertheless bring his suit within six years after it accrued, on condition that he waives the interest accruing between the expiration of the one-year period and the date on which the petition is filed.

This bill passed the Senate on April 13, 1939, was transmitted to the House and referred to the Committee on the Judiciary of the House. That Committee has made no report on it as yet.

The provision requiring claimants for just compensation who bring their suit after one year but within six years to waive interest, does not seem to your Committee to be fair. The delay in bringing suit in cases of this kind is mostly due to the pendency of negotiations with the particular department involved with a view to an amicable settlement. The department will not continue such negotiations if suit has been brought in the Court of Claims. The claimant is therefore confronted with the dilemma at the end

of one year either of abandoning all efforts toward an amicable settlement, or losing interest pending such further negotiations. The bill was probably put forward with the idea of preventing claimants from intentionally delaying the filing of suit for the purpose of obtaining additional interest. While there may, perhaps, have been such claims, your Committee thinks that the number of them is very much less than the number of claims where the claimant is trying to obtain an amicable adjustment and delaying suit for that purpose.

The extent to which this Act will affect maritime matters may be questionable. In so far as interested, however, your Committee is inclined to recommend that the bill be opposed.

IRA A. CAMPBELL, *Chairman*

JOHN W. GRIFFIN

OSCAR R. HOUSTON

Ira A. Campbell, Chairman, read the written report of this Committee with reference to the bill to establish a United States Administrative Court, commonly known as the "Logan-Walter Bill." The report is as follows:

Bills providing for the establishment of administrative courts were introduced by the late Senator Logan and Congressman Walter, and thus have come generally to be known as the "Logan-Walter Bill."

The bill was passed by the House of Representatives on April 18th, last, by a vote of 282, 79 opposed, and 50 not voting, and is now before the Senate Committee on Judiciary. It is fair to say that the chances are against the bill being reported out, although a strenuous effort will be made to get it before the Senate.

The bill defines an agency as meaning any department, independent establishment, administration, corporation, or other subdivision of the executive branch of the United States Government with one chief officer as the immediate head; and an independent agency as meaning any board, commission, authority, corporation, or other subdivision of the executive branch with two or more officers at the head thereof as board, commission, or other members. However, some who or which would fall within the foregoing designations are specially excepted.

In its essence—

The bill provides that hereafter administrative rules* shall be issued only after notice and public hearings, except when the President declares that a public emergency exists; that any rule which has not been in force on the date of the approval of the Act for a period of three years shall, upon petition of a person substantially interested, and after public hearing, be reviewed by the head of the agency or independent agency issuing it, who shall determine whether it shall be continued in force, modified or rescinded.

A review of any such rule may be had by petition to the United States Court of Appeals for the District of Columbia. The Court shall have no power in the proceedings except to render a declaratory judgment holding the rule legal and valid or contrary to law and invalid.

The bill also provides for the appointment by the head of each agency of a board to be comprised of three employees of the agency.

Any person aggrieved by any decision of any officer or employee of the agency may request that the controversy be referred to the board, and thereafter a hearing shall be had at which the aggrieved person shall have opportunity for a full and fair hearing, with the right to examine and cross-examine witnesses, and introduce into the record testimony, documents, etc. Any person having a substantial interest in the controversy may intervene.

Within thirty days after the evidence and arguments are closed, the board shall make written findings of facts and separate decisions thereon, which shall be subject to the written approval, disapproval or modification of the head of the agency or of such person as he shall designate to act for him.

Where any matter arises out of the activities of an independent agency, it may be heard by one of its trial examiners, who shall file his findings of fact. If the aggrieved party files written objections with the agency within thirty days, then the agency shall not enter its decision without a public hearing before members of the agency.

Any party to such proceedings aggrieved by the final decision or order may, within thirty days, file a written petition with the Clerk of the United States Court of Appeals for the District of

*"Administrative rules" includes rules, regulations, orders, and amendments thereto interpreting the terms of statutes administered by the issuing officers.

Columbia, or with the Clerk of the Circuit Court of Appeals within whose jurisdiction such aggrieved party resides or maintains his principal place of business or in which the controversy arose, for review of the decision. The Attorney General and the agency or independent agency are to be served with a copy of the petition, and it shall be the duty of the Attorney General to enter an appearance on behalf of the United States, and the duty of the agency or independent agency to cause to be prepared and filed with the clerk of such court the original or a full transcript of the entire record in the proceedings. The court may affirm or set aside the decision or direct its modification.

To facilitate the hearing of such appeals and avoid delay, the court may constitute special sessions thereof to consist of three judges competent in law to sit as judges of a Circuit Court of Appeals, which special sessions may be held concurrently with the regular sessions of the court.

Any decision of an agency or independent agency shall be set aside if it is made to appear to the satisfaction of the court (1) that the findings of fact are clearly erroneous; or (2) that the findings of fact are not supported by substantial evidence; or (3) that the decision is not supported by the findings of fact; or (4) that the decision was issued without due notice and a reasonable opportunity having been afforded the aggrieved party for a full and fair hearing; or (5) that the decision is beyond the jurisdiction of the agency or independent agency, as the case may be; or (6) that the decision infringes the Constitution or statutes of the United States; or (7) that the decision is otherwise contrary to law.

The judgments of the Circuit Courts of Appeals shall be final, except subject to review by the Supreme Court of the United States upon writ of certiorari or certification.

The Act applies to any officers and employees in the executive branch except the President of the United States, and to any department, independent establishment, administrative corporation or other subdivision of the executive branch, and to any board, commission, authority, corporation or other subdivision of the executive branch, except certain designated establishments and agencies, including the Interstate Commerce Commission, Federal Trade Commission, Department of State, military and naval establishments, Department of Justice, United States Attorneys, etc.

The bill would seemingly include those agencies with which the members of this Association are more intimately concerned, such as the United States Maritime Commission, Bureau of Marine Inspection and Navigation, National Labor Relations Board, and others. The Maritime Commission may be without the scope of the Act as a Federal lending agency.

There are approximately 130 governmental agencies, not including the various bureaus into which the government departments are subdivided. The procedures followed by these agencies are without uniformity; practically all of them issue administrative rules, make investigations, conduct hearings, and decide controversies, thus exercising quasi-legislative and quasi-judicial functions.

The system has developed a bureaucracy which must be controlled and regulated if our present form of government is to endure, for it is obvious that the agencies cannot be abolished and a return made to the former simpler processes of government. Recent investigations by Congress, particularly into the operations of the National Labor Relations Board, have revealed the unbridled length to which uncontrolled agencies will go in denying fair and impartial hearings and determinations. Apparently, under existing law, the courts are without jurisdiction to exercise the needed restraints.

There seems to be only one way in which uniformity of procedure and guaranty of full and impartial hearings and determinations can be secured, and that is through judicial review, by which authority shall be granted the courts to correct the abuses which are growing up under this new system of governmental administration.

The present bill is not perfect and may not be all that is to be desired, but it is an effort in the right direction. Experience will demonstrate the errors and deficiencies in the legislation, which can be corrected and supplemented; it will have the effect, at least, of laying upon the activities of these numerous agencies the controlling hand and influence of the Federal judiciary, thus assuring equal treatment under the law to the government and its citizens, and ultimately uniform and orderly procedures.

It was stated from the floor of the House that numerous bar associations, including the American Bar Association, had endorsed the bill. It appears, however, that the Committee on Adminis-

trative Law of the Association of the Bar of the City of New York has recorded its disapproval of the bill.

It is the recommendation of your Committee that the Maritime Law Association of the United States record its approval of the principles of the bill, and recommend its enactment as passed by the House, rather than to leave the various administrative agencies free to continue their present uncontrolled and unjudicial methods.

IRA A. CAMPBELL, *Chairman*

JOHN W. GRIFFIN

OSCAR R. HOUSTON

A motion was duly made and seconded that this report be adopted as read. Considerable discussion was then had upon this motion, Messrs. Collins, Hann, Mount, Frank and Farwell speaking. Mr. Farwell moved an amendment to the motion that the bill be approved only in principle. Discussion was had on this amendment, Messrs. L. S. Parsons, Vandeventer and Campbell speaking. A vote was had on the amendment and it was lost. Mr. Mount thereupon moved another amendment that the Association go on record as recommending that the Maritime Commission be excepted from the bill, but there was no second to this amendment. A vote was thereupon had upon the original motion to approve and adopt the report as read and this motion was duly carried. The Committee was continued for the purpose of seeing that effect should be given to this action of the Association.

COMMITTEE ON H. R. 7637 RELATIVE TO LIABILITY OF VESSELS
IN COLLISION.

The report of this Committee was accepted by the Executive Committee at its meeting March 11, 1940, and is included in Document No. 252, page 2630. Mr. Hupper, as Chairman of this Special Committee, stated that representations were made by the Committee to Mr. Bland that matters be left in status quo, but that nevertheless a hearing on the bill was called for April 9th, which was adjourned indefinitely without any testimony having been taken.

COMMITTEE ON S. 3655 EXTENDING THE JONES ACT TO SEAMEN
ON FOREIGN VESSELS.

The report of this Committee, consisting of Vernon S. Jones, Arthur M. Boal and William E. Collins, was circulated as Document No. 252 prior to the meeting. Vernon S. Jones, as Chairman, explained the report and, upon motion duly made, seconded and carried, it was adopted and the Committee was continued for the purpose of carrying out the action of the Association.

Election of Officers

Ira H. Campbell, as Chairman of the Nominating Committee, which consisted of himself, Earle Farwell, John W. Griffin, Albert Gould, Joseph W. Henderson, Oscar R. Houston and Robert Williams, presented the following nominations:

For President—

ROSCOE H. HUPPER, of New York, N. Y.

For Vice-President—

LAWRENCE BOGLE, of Seattle, Washington.

For Secretary-Treasurer—

GEORGE C. SPRAGUE, of New York, N. Y.

For Members of the Executive Committee (to hold office until the Annual Meeting 1943):

ALLAN B. A. BRADLEY, of New York, N. Y.

LEONARD J. MATTESON, of New York, N. Y.

SEYMOUR P. EDGERTON, of Boston, Massachusetts.

It was duly moved, seconded and carried that the nominations be made unanimous. The Chairman declared the nominees duly elected to the respective offices set opposite their names for the terms as hereinabove set forth.

A message from the retiring President, Charles R. Hickox, was then read to the Association by the Chairman.

The Chairman then called upon Mr. Hupper as President-elect to take the chair, which Mr. Hupper did. After brief remarks by Mr. Griffiths and Mr. Hupper, the meeting, upon motion duly made, seconded and carried, adjourned at 6.15 P. M. to reconvene at The University Club, 1 West 54th Street, New York City, at 7 P. M. for the annual dinner.

GEORGE C. SPRAGUE,

Secretary.

Annual Dinner

The annual dinner was held at The University Club, 1 West 54th Street, New York City, at 7 P. M., May 6, 1940. 155 members and their guests were present. There were also present as guests of the Association, Judge Learned Hand and Judge Robert P. Patterson, of the U. S. Circuit Court of Appeals for the Second Circuit; Judge Henry W. Goddard, Judge William Bondy, Judge Francis G. Caffey, Judge George Murray Hulbert, Judge John W. Clancy and Judge Vincent L. Leibell, of the U. S. District Court for the Southern District of New York, and Judge Robert A. Inch, Judge Clarence G. Galston, Judge Matthew T. Abruzzi and Judge Mortimer W. Byers, of the U. S. District Court for the Eastern District of New York. Mr. Hupper called upon Judge Learned Hand, Mr. Farnham P. Griffiths and Mr. Cletus Keating, who spoke informally.

Chauncey I. Clark was Chairman of the Dinner Committee and the members of his Committee were as follows:

Reese D. Alsop	Arnold W. Knauth
Arthur M. Boal	Mark W. Maclay
John T. Carpenter	Eugene McCue
William E. Collins	P. J. R. McEntegart
Harold S. Deming	Adrian J. O'Kane
Robert S. Erskine	John C. Prizer
Charles W. Hagen	Carver Wolfe
James S. Hemingway	