

June 1946

THE MARITIME LAW ASSOCIATION
OF THE UNITED STATES

ANNUAL MEETING—MAY 3, 1946

The Forty-seventh Annual Meeting of the Association was held in the Carter and Evarts Rooms at the building of the Association of the Bar of the City of New York, on Friday, May 3, 1946, at 4 P. M., pursuant to due notice following the regular quarterly meeting of the Executive Committee, with the President, Geo. Whitefield Betts, Jr., presiding.

Present: Geo. Whitefield Betts, Jr., President; Archie M. Stevenson, Vice-President; P. J. R. McEntegart, Secretary; Thomas H. Middleton, Treasurer, and the following 90 members:

John M. Aherne	Henry C. Eidenbach
Robert J. Andrews	D. Roger Englar
Samuel D. Antopol	Howard F. Fanning
Robert E. Ard	Earle Farwell
Horace T. Atkins	Capt. Raymond F. Farwell,
Capt. Myron H. Avery, USNR	USNR
Frederic B. Besimer	Comdr. Keith R. Ferguson,
Arthur M. Boal	USNR
George S. Bréngle	Barton P. Ferris
Joseph M. Brush	Samuel B. Fortenbaugh, Jr.
Charles D. Burkinshaw	Ezra G. Benedict Fox
John T. Casey	John F. Frazer
Vincent A. Catoggio	James E. Freehill
Arthur W. Clement	John L. Galey
Alfred T. Cluff	Frank H. Gerrodette
William E. Collins	Julian S. Gravely, Jr.
John W. Crandall	Charles Hann, Jr.
John C. Crawley	John Hays
Martin Detels	Nicholas J. Healy, 3rd
Henry W. Dieck	Wilbur H. Hecht
Wilbur E. Dow	Christopher E. Heckman
Corydon B. Dunham	Henry M. Hewitt
Seymour P. Edgerton	Oscar R. Houston

Harry B. Jones	Charles F. Quantrell
T. Catesby Jones	Edward A. Quinlan
Vernon S. Jones	Herbert P. Reid
Leslie C. Krusen	Miss Elizabeth Robinson
J. Harry LaBrum	James W. Ryan
Paul H. Lacques	Horace W. Schmahl
George M. Lanning	Richard F. Shaw
Lt. Comdr. Edward G. Linsley,	John Henry Skeen
USNR	Capt. John Henry Skeen, Jr.,
Howard T. Long	AUS
Edwin Longcope	Dudley C. Smith
Henry N. Longley	Edward L. Smith
Arthur O. Louis	J. Frank Staley
Anthony V. Lynch, Jr.	William L. Standard
Stevenson Masson	Herbert G. Telsey
Leonard J. Matteson	Lawrence R. Thomsen
G. Hunter Merritt	William J. Tillinghast, Jr.
John C. Monroe	Eugene Underwood
B. Allston Moore	Thomas H. Walker
John W. Neville	Thomas H. Walsh
Alfred Ogden	George W. P. Whip
Lester S. Parsons	Frederick A. Wildnauer
John C. Prizer	Gray Williams
Warner Pyne	John W. R. Zisgen

The reading of the minutes of the annual meeting of May 5, 1945, was, on motion, dispensed with because they had been printed as Document 301 and distributed to the members.

At the suggestion of the President, the reading of the minutes of the meetings of the Executive Committee during the year, namely, November 29, 1945; January 3, April 16, and May 3, 1946, was dispensed with inasmuch as the principal matters transacted at those meetings are included in the reports of the President and of the Secretary.

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

REPORT OF THE PRESIDENT FOR THE YEAR 1945-46

The year has been an extremely interesting one and many subjects have been considered and acted upon.

1. Limitation of Liability:

At the last annual meeting the President was requested to write Chief Justice Stone, suggesting a revision of the Supreme Court Rules in Admiralty on Limitation of Liability in order to make them conform as near as practicable to the limitation rules in the Southern and Eastern Districts of New York. Accordingly, after correspondence with Justice Stone he requested us to present a draft of the suggested amendments for consideration at the meeting of the Senior Circuit Judges in September, 1945, and also to send copies of the suggestions to the various Judicial Conferences to be held in the different Circuits throughout the summer. This letter, however, did not arrive until well into July and I accordingly wrote to the Chief Justice that I would not be able to complete the draft of the amendments before I left on my vacation but expected to complete them while away and forward them in time for the Judicial Conference of Senior Circuit Judges to be held in Washington in September. I drafted some proposed amendments while on vacation embodying most of the amendments made in the District Court rules here and making some other changes which I thought were advisable. On my return I referred these to Messrs. Farwell, Lynch and Vernon Jones, the only members who acted on our limitation of liability committee in connection with the Southern District amendments who were in town, and after receiving some helpful suggestions we all agreed on the form of amendments of Rules 51 to 54 of the Supreme Court, and they were forwarded to the Chief Justice and at his request to the Administrator of the United States Courts, in the form of the old rules, with the suggested omissions appearing in parentheses and the suggested additions appearing in italics. The Chief Justice then wrote me that he had appointed a Committee of six, consisting of Judges Thomas W. Swan (Chairman) and Murray Hulbert, Phillip Forman, Sterling Hutcheson, Wayne G. Borah and John C. Bowen, to consider and report on the proposed amendments.

I conferred with Judges Swan and Hulbert and they approved them except with slight changes in language, and I have a letter from Judge Bowen enclosing a report of Mr. Bucey of Seattle, Chairman of the Committee appointed by him to consider them. This Committee approved the amendments with a few suggested changes, most of which on brief examination I think may be helpful, except the suggestion to continue the practice of filing objections to claims.

As the meeting of the Executive Committee before the annual meeting will be a very short one and both the Committee and I will be going out of office, these suggestions may have to go over to the new administration.

2. Amendments to Rules for Civil Procedure:

On receiving a copy of the amendments proposed by the Advisory Committee appointed by the Supreme Court to consider any changes in such rules, I appointed a Committee with Warner Pyne as Chairman to consider said proposed amendments, and this Committee reported that they were in accord with the amendments proposed in the May, 1945, draft, with the following exceptions:

Rule 6: In the Advisory Committee's draft of May, 1944, it was proposed to amend Rule 12(a) by providing that the time of a party to plead or otherwise move under the rule might be extended by written stipulation of the parties once, without the approval of the Court. This provision, however, was deleted in the second draft of May, 1945.

Our Special Committee reported that Rule 6(b) should be amended so as to provide that time to plead or otherwise move might be enlarged by a stipulation in writing of the parties.

Rule 12: Our Committee reported that that part of the rule which expressly permits a bill of particulars for the purpose of preparing for trial should be retained instead of stricken out as recommended by the Advisory Committee, for the very good reasons set forth in their report.

Rule 14: Our Committee disapproved of the proposed change in this rule which would prevent the defendant from bringing in a third party liable to the plaintiff. This practice has proven most desirable in admiralty cases.

Rules 26, 30(b), 31 and 34—dealing with interrogatories and the production of papers: This amendment proposed to require a party to furnish the opposing side with information obtained from witnesses, and also was broad enough to cover statements obtained from them, subject to control in the judge's discretion. Our Committee thought that this proposed practice was distinctly objectionable. Under the late case in the Third Circuit, *Hickman v. Taylor*, this practice has been held to violate the rights of litigants.

Rule 73—Time of Appeal: The Advisory Committee's amendment proposed to shorten the time from ninety days to thirty days, and in the case of the United States, to sixty days. Our Committee saw no necessity for this change, and saw many reasons why the time should not be cut down from ninety days.

Rule 77: The proposed amendment provided that lack of notice by the Clerk of the Court of the entry of an order or judgment should not affect the time to appeal. Our Committee thought that this Rule should be amended so as to relieve the Clerk of the duty of giving notice of entry and to provide that the time to appeal should run from the date of service by any party or his attorney.

The report of the Committee was accepted at the next meeting of the Executive Committee held on November 29, 1945, and a copy of the report directed to be sent to the Advisory Committee.

3. Extension of Admiralty Jurisdiction:

In order to coordinate our efforts in Washington, I appointed Mr. J. Franklin Fort, formerly with the War Shipping Administration, Vice-Chairman of our Committee to secure legislation. Being on the spot and in more or less frequent contact with the representatives of the governmental departments there, he was very helpful. The War Shipping Administration approved the bill as before. The Department of Justice finally approved it with certain limitations, as Mr. Hickox, our Chairman, will no doubt point out. Briefly summarized, they provided that the statute should apply only to claims: (1) arising after enactment, thereby excluding many war claims; (2) arising within the United States, its territories and possessions; (3) relating to War Ship or Maritime Commission vessels; (4) which had been disallowed by the appropriate administrative agency.

The Navy we were advised expressed no objection to the substance of the proposed legislation with the qualification that it be limited to claims arising after enactment, and the Maritime Commission and War Shipping Administration were favorable to the bill in its present form. The Department of Justice's report, with copies of these reports, was sent to the Bureau of the Budget which advised the Attorney General that there was no objection to the submission of the proposed report to the Senate Judiciary Committee. Mr. Fort advised on April 11, 1946, that as soon as the Attorney General's report is forwarded to the Senate Committee a hearing may be requested and that he will keep us advised of developments.

When I was in Florida recently I was advised by Cody Fowler that Senator Andrews, at whose request the bill was introduced, had advised him that he would arrange for a hearing before the Senate Committee as soon as we were ready. I have strong hopes that our new administration will be able to procure its enactment.

4. Lights to be Carried by Certain Naval Vessels:

On September 24, 1945, Captain Avery of the Judge Advocate General's Office of the Navy called on me and showed me copies of a bill introduced in Congress to provide that certain naval vessels of certain construction need not comply with the general rules as to lights when a proper certificate was made by the Secretary of the Navy that it was not practical to so comply. He wished to know the attitude of the Maritime Law Association concerning it and I appointed a Committee consisting of Mr. Chauncey Clark and Mr. Robert S. Erskine to consider the matter and report. They both reported to me orally as opposed to the legislation on the ground that in peace times in their opinion the regular lights could be carried, and I so advised Captain Avery.

On October 31, 1945, Captain Avery sent me printed copies of the bill that had been introduced in the Senate (S. 1494) and referred to the Committee on Naval Affairs, and in the House (H. R. 4413), and I referred same to the Committee; and also wrote to Captain Avery asking when the hearing was likely to be held.

On November 5, 1945, we learned that without any notice to our Association a hearing was held before the Senate Committee and the bill approved with two minor amendments. It appeared,

however, that certain titles of Second War Powers Act were likely to be extended, in which event this legislation would not be necessary. After conference with the Special Committee we agreed that it was not advisable to attempt to block the legislation before the House Committee, as in any event with the Navy in favor of it, it was very doubtful whether we would succeed.

Later we were advised that the Second War Powers Act had been extended and that the bill had passed and become law.

5. Lights on Towed Vessels:

At the last annual meeting I was authorized to appoint additional members on the Committee on Lights on Towed Vessels, in order to possibly provide for uniform rules for the different districts, which is most advisable. It seemed best to appoint members from different inspection districts in order to get a general view of the subject. Accordingly, with the approval of the Chairman of that Committee I appointed ten additional members from different districts who have been working on the matter.

I took this matter up with Admiral Spencer of the Coast Guard at Washington, the chief of the Office of Merchant Marine Safety, and he advised that the unification of the rules on vessels towed on inland waters would be referred to the Commandant of the Coast Guard for action by the Merchant Marine Council; that the Commandant still has power to change these rules, and that the functions of the Bureau of Marine Inspection and Navigation would be performed by the Coast Guard until six months after the war is officially declared to be ended, unless sooner changed by competent authority. He assures us that the Coast Guard will be extremely sympathetic to any movement originating with the maritime industry toward unification and simplification of the pilot rules, and that the Merchant Marine Council and the Committee on Rules of the Road will give careful attention to any recommendations that we submit.

6. Official Log Books:

In September, 1945, I received a letter from Commander Hall of the United States Coast Guard in Washington outlining the intentions of the Coast Guard so far as permitting interested parties to look at entries in the official log books and obtain certified copies. I appointed a Committee to deal with this matter—Mr. Chauncey I. Clark and Mr. Vernon Jones. Mr. Vernon

Jones requested his partner, Mr. Robert S. Erskine, to write a memorandum on this, which he did, opposing the regulation, and Mr. Clark also wrote, opposing the proposed regulation in so far as it would permit others than the shipowner, operator or seamen of the vessel to make such examination or obtain copies of entries, and I so reported to Commander Hall.

During the year I was in correspondence with Admiral Spencer with reference to this matter. After consideration by our Executive Committee I was instructed to finally advise Admiral Spencer that the Association thought that such inspection should not be had by or copies furnished to anyone but the shipowner or his representatives except upon order of the court or with the shipowner's consent. I wrote Admiral Spencer to this effect on November 30, 1945, but I have only just now received his answer to the effect that the result of the consideration of this subject by the Coast Guard has not been published to date but will be promulgated in the near future and advising me of a preview of the Coast Guard action as follows: When a bona fide and legitimate interest is shown, entries in such logs may be examined in the presence of a Coast Guard officer or representative by the owners, charterers, operators, agents and master, officers and seamen, passengers, owners of cargo and underwriters or their representatives, and that certified extracts of entries relating to their interests will be furnished them.

As this proposed action does not comply with the views of our special committee or the Executive Committee, the new administration will no doubt wish to take further action.

7. Proposed Special Rules to Prevent Collisions in the Gulf Intracoastal Waterway and Certain Waters Tributary to the Gulf:

About the first of October, 1945, I received several copies of a bill providing special rules for preventing collisions in the above waters. I appointed a special committee, consisting of Harry F. Stiles, Jr., of New Orleans, Chairman, Palmer Pillans of Mobile and Carl G. Sterns of Houston to examine the bill and report their conclusion, which was, after conference with various shipping interests, that the legislation was inadvisable and would tend to confusion with other rules, and that the inland rules and pilot rules should apply with any necessary amendments, and in this the Executive Committee concurred.

8. Suits in Admiralty Act:

During the year suggestions were made as to possible amendments to the Suits in Admiralty and Public Vessels Acts, to liberalize the place of bringing suit. After consideration the President appointed a Committee to consider the matter but so far no report has been made.

9. Revision of Title 46, U. S. C., entitled "Shipping":

In Mr. Knauth's report with respect to a new edition of the Navigation Laws, he called attention to the projected revision of Title 46 by the House of Representatives Committee on the revision of the laws, and that certain members of our Association had been invited to attend a two-day conference on the matter. A glance at the proposed revision shows that many changes in the wording are included, and that the sections of certain acts, such as the Harter Act and the Carriage of Goods Act, are intermingled. Mr. Englar is attending this conference and no doubt will report at our annual meeting.

In view of the short time remaining of my term, I considered that the appointment of a Committee to deal with this matter should be left to the attention of the new President. In my view such a Committee should be appointed to deal with the matter and give it the consideration it deserves.

10. Committees:

Some comment has been made to the effect that matters are often referred to committees and interred, so to speak, without meetings of the committees being held or definite action being taken. This matter has had my earnest consideration with a view to arriving at a conclusion as to how the efficiency of the Association could be improved. I came to the view that more interest would be aroused in the Association and its efficiency increased by amending the by-laws so that the terms of office of all committees appointed by the President would expire at the following annual meeting. The Association of the Bar of the City of New York has adopted a similar procedure, probably for the same reasons which influenced me. I accordingly proposed such amendments at the last meeting of the Executive Committee, and they will be presented for your consideration.

This would leave the new President with a free hand to retain such members and chairmen of committees as he thought advisable and bring in such new blood as he thought wise.

II. Diversity Jurisdiction:

At a meeting of the Federal Courts Committee of the New York County Lawyers, of which I am a member, we had to deal with H. R. 4168 and S. 466, which seek to take away the jurisdiction of the District Court over controversies between citizens of different states except where it is made to appear to the District Court that from prejudice or local influence the parties seeking removal will not be able to obtain justice in the State Courts. Believing that this was of interest to our members, due to the many suits involving maritime matters that are brought at law and in equity in the United States Court, I referred these bills to the same Committee that dealt with the proposed amendments to the Civil Rules, and their report, holding that the bills should be opposed, was approved by the Executive Committee. I was later advised by a member of the Senate Committee on the Judiciary that he did not think the bill was likely to pass.

I want to express my appreciation of the valuable aid that has been given me at all times by many members of the Association, the Executive Committee and our Secretary and Treasurer, and especially of the opportunity that has been afforded me to become better acquainted with the younger members of the Bar. It has been a great pleasure to serve you.

Respectfully submitted,

GEO. WHITEFIELD BETTS, JR.,
President.

Dated, New York, May 3, 1946.

After submitting his report, the President spoke of the advisability of seeking legislation to do away with the necessity for a Petition for Appeal. Mr. Collins called the attention of the members to the provision that the time within which to appeal from an interlocutory decree runs from the entry of the decree and not from the service of the decree with notice of entry.

SECRETARY'S REPORT FOR THE YEAR 1945-46

The year's activities consisted principally of the work of certain of our committees, particularly the Executive Committee, and the annual meeting held on May 4, 1945. That meeting adjourned at 6:45 P. M. We reconvened at The University Club on the evening of the same day for the annual dinner-meeting, which was attended by 342 members and their guests. Eight Federal Judges, as well as Admiral Waesche and his staff, were our guests. Interesting addresses were delivered by Judge Augustus N. Hand of the Second Circuit Court of Appeals and Judge Kennedy of the Eastern District Court of New York. Captain Lawrence J. Bernard, USCGR, delivered on behalf of Admiral Russell R. Waesche, Commandant of the United States Coast Guard, a scholarly dissertation on the history and functions of the Coast Guard. Geo. Whitefield Betts, Jr., the President, presided.

There were four meetings of the Executive Committee during the year, November 29, 1945; January 3, April 16, and May 3, 1946. Due to the number of members of the Executive Committee from out of town, we had, on occasion, difficulty in obtaining a quorum.

It will be recalled, that at the last annual meeting the Articles of Association and By-Laws were amended so as to permit the Executive Committee to elect members, whereas formerly members could only be elected by the Association. Under this new procedure, 5 judges and 79 candidates for active membership were elected to associate and active membership by the Executive Committee during the year.

MEMBERS ELECTED AT THE NOVEMBER 29, 1945 EXECUTIVE COMMITTEE MEETING

ACTIVE MEMBERSHIP

JAMES L. ADAMS

Lillick, Geary, Olson & Charles
311 California Street, San Francisco, Cal.

LEAVENWORTH COLBY

Department of Justice
Washington 25, D. C.

ACTIVE MEMBERSHIP (*Continued*)

JAY T. COOPER

Dorr, Stevenson & Cooper
465 California Street, San Francisco, Cal.

HON. BERNARD J. FLYNN

United States Attorney for the District of Maryland
Post Office Building, Baltimore 2, Md.

SPARKMAN D. FOSTER

Foster & Lott
3466 Penobscot Building, Detroit 26, Michigan

MILTON I. GOLDSTEIN

1730 Boatmen's Bank Building, St. Louis 2, Missouri

ARCHIBALD T. McGRATH

11 Broadway, New York 4, N. Y.

JOSEPH B. McKEON

Wright & McKeon
433 California Street, San Francisco, Cal.

RUSSELL A. MACKEY

McCutchen, Thomas, Matthew, Griffiths & Greene
Balfour Building, San Francisco, Cal.

PAUL C. MATTHEWS

11 Broadway, New York 4, N. Y.

MAJOR K. P. NELSON

Marine Operations Branch of the Water Division
United States Army
Room 3B748, The Pentagon, Washington 25, D. C.

F. W. PERRY

Union Insurance Society of Canton, Ltd.
400 Colman Building, Seattle, Wash.

JOHN W. SIMS

Chaffe, McCall, Bruns, Toler & Phillips
Whitney Building, New Orleans 12, La.

PATRICK F. TIERNAN

111 Fulton Street, New York 7, N. Y.

LT. (J.G.) WILLIAM M. WALLACE, USNR

c/o U. S. Merchant Marine Academy
Kings Point, New York

W. DALE WILLIAMS

Pier 9, North River, New York, N. Y.

MEMBERS ELECTED AT THE JANUARY 3, 1946
EXECUTIVE COMMITTEE MEETING

ACTIVE MEMBERSHIP

- C. GORDON CAMPBELL
Fire Association of Philadelphia
401 Walnut Street, Philadelphia 6, Pa.
- CHARLES N. FIDDLER
Kirlin, Campbell, Hickox & Keating
120 Broadway, New York 5, N. Y.
- THOMAS L. LOTT
Foster & Lott
3466 Penobscot Building, Detroit 26, Michigan
- ASHFIELD E. STOW
American-Hawaiian Steamship Company
215 Market Street, San Francisco 5, Cal.

MEMBERS ELECTED AT THE APRIL 16, 1946
EXECUTIVE COMMITTEE MEETING

ACTIVE MEMBERSHIP

- SAMUEL D. ANTOPOL
270 Broadway, New York 7, N. Y.
- BERNARD DEWITT ATWOOD
Haight, Griffin, Deming & Gardner
80 Broad Street, New York 4, N. Y.
- WILLIAM J. BALL
War Shipping Administration
351 California Street, San Francisco 4, Cal.
- ROBERT W. BIKLE
Krusen, Evans & Shaw
225 South 15th Street, Philadelphia 2, Pa.
- HENRY C. BLACKISTON, JR.
Lord, Day & Lord
25 Broadway, New York 4, N. Y.
- ANDREE S. CARROLL
Kirlin, Campbell, Hickox & Keating
120 Broadway, New York 5, N. Y.

ACTIVE MEMBERSHIP (*Continued*)

- VICTOR S. CICHANOWICZ
Kirlin, Campbell, Hickox & Keating
120 Broadway, New York 5, N. Y.
- DAVID L. CORBIN
Haight, Griffin, Deming & Gardner
80 Broad Street, New York 4, N. Y.
- HELEN CLARE CUNNINGHAM
Kirlin, Campbell, Hickox & Keating
120 Broadway, New York 5, N. Y.
- JOSEPH M. CUNNINGHAM
Kirlin, Campbell, Hickox & Keating
120 Broadway, New York 5, N. Y.
- JOSEPH F. DOLAN
Department of Justice
Washington 25, D. C.
- JAMES M. ESTABROOK
Haight, Griffin, Deming & Gardner
80 Broad Street, New York 4, N. Y.
- LT. COMDR. HARRY J. GROSS, USNR
Office of the Judge Advocate General
Navy Department
Washington 25, D. C.
- J. FRANCIS HAYDEN
Department of Justice
Washington 25, D. C.
- EVERETT W. KRAMER
Room 1006—U. S. Court House
Foley Square, New York 7, N. Y.
- RUTH M. McELVENEY
Kirlin, Campbell, Hickox & Keating
120 Broadway, New York 5, N. Y.
- JAMES B. MAGNOR
Kirlin, Campbell, Hickox & Keating
120 Broadway, New York 5, N. Y.
- THOMAS P. MESICK
76 Beaver Street, New York 5, N. Y.
- JOHN C. MOORE
Haight, Griffin, Deming & Gardner
80 Broad Street, New York 4, N. Y.

ACTIVE MEMBERSHIP (*Continued*)

- J. WARD O'NEILL
Haight, Griffin, Deming & Gardner
80 Broad Street, New York 4, N. Y.
- FRANCIS X. NESTOR
Bigham, Englar, Jones & Houston
99 John Street, New York 7, N. Y.
- FRANCIS E. PEGRAM, JR.
1411 Fidelity Building, Baltimore, Maryland
- CHRISTY GEORGE PETERS
60 Wall Street, New York 5, N. Y.
- ALBERT V. PLOTNER
General Traffic Service Company
99 John Street, New York 7, N. Y.
- HORACE W. SCHMAHL
19 Rector Street, New York 6, N. Y.
- DUDLEY C. SMITH
116 John Street, New York 7, N. Y.
- JOHN F. SONNETT
Assistant Attorney General of the United States
Department of Justice
Washington 25, D. C.
- HERBERT G. TELSEY
55 Liberty Street, New York 5, N. Y.
- L. K. VERMILLE
733 Roosevelt Building, Los Angeles 14, Cal.
- SYDNEY W. WILDE
67 Wall Street, New York 5, N. Y.
- CLARENCE J. YOUNG
Hampson, Loerner, Young & Swett
800 Pacific Building, Portland 4, Oregon

MEMBERS ELECTED AT THE MAY 3, 1946
EXECUTIVE COMMITTEE MEETING

ASSOCIATE MEMBERSHIP

HON. GUY L. FAKE
United States District Judge
for the District of New Jersey
Newark, New Jersey

HON. PHILIP FORMAN
United States District Judge
for the District of New Jersey
Trenton, New Jersey

HON. THOMAS F. MEANEY
United States District Judge
for the District of New Jersey
Newark, New Jersey

HON. WILLIAM F. SMITH
United States District Judge
for the District of New Jersey
New Brunswick, New Jersey

HON. CHARLES E. WYZANSKI, JR.
United States District Judge
for the District of Massachusetts
Federal Building, Boston 9, Mass.

ACTIVE MEMBERSHIP

BENN BARBER
Waterman Steamship Corporation
19 Rector Street, New York 6, N. Y.

ARTHUR M. BECKER
War Shipping Administration
2445—15th Street, N. W., Washington 9, D. C.

JOHN L. BELFORD
Burlingham, Veeder, Clark & Hupper
27 William Street, New York 5, N. Y.

FREDERIC B. BESIMER
Miller, Canfield, Paddock & Stone
Penobscot Building, Detroit 26, Michigan

EDMUND C. BURKE
c/o Hanrahan & Dougherty
67 Wall Street, New York 5, N. Y.

ACTIVE MEMBERSHIP (*Continued*)

JAMES J. DONAHUE

Bigham, Englar, Jones & Houston
99 John Street, New York 7, N. Y.

JAMES J. DONOVAN, JR.

Hill, Rivkins & Middleton
60 Wall Street, New York 5, N. Y.

JOHN DUNAIF

French Shipping and Transport Mission
Room 300—111 Broadway, New York 4, N. Y.

PAUL ELKIND

War Shipping Administration
45 Broadway, New York 6, N. Y.

COMDR. KEITH R. FERGUSON, USNR

311 California Street, San Francisco, Cal.

WILLIAM J. FERRIS

Hill, Rivkins & Middleton
60 Wall Street, New York 5, N. Y.

RENATO C. GIALLORENZI

Reid, Cunningham & Freehill
76 Beaver Street, New York 5, N. Y.

J. S. GILBERTSON

Hartford Fire Insurance Company
Hartford, Connecticut

JULIAN S. GRAVELY, JR.

Bigham, Englar, Jones & Houston
99 John Street, New York 7, N. Y.

JAMES M. HASTIE

Hill, Rivkins & Middleton
60 Wall Street, New York 5, N. Y.

WALTER P. HICKEY

Kirlin, Campbell, Hickox & Keating
120 Broadway, New York 5, N. Y.

SIDNEY R. JACKSON

Hunt, Hill & Betts
120 Broadway, New York 5, N. Y.

PAUL M. JONES

Purrington & McConnell
52 Wall Street, New York 5, N. Y.

ACTIVE MEMBERSHIP (*Continued*)

PETER J. KORSAN

Fire Association of Philadelphia
401 Walnut Street, Philadelphia 6, Pa.

LT. COMDR. EDWARD G. LINSLEY, USNR

Admiralty Section
Office of the Judge Advocate General
Washington 25, D. C.

LAWRENCE W. MCKEOWN

50 Broadway, New York 4, N. Y.

WILLIAM V. MAHON

Shipowners Claims Bureau
25 Broad Street, New York 4, N. Y.

LEIGHTON K. MONTGOMERY

15 William Street, New York 5, N. Y.

THOMAS L. MORROW

Bogle, Bogle & Gates
Central Building, Seattle 4, Wash.

CLARENCE G. MORSE

Graham & Morse
310 Sansome Street, San Francisco, Cal.

EUGENE RHEINFRANK

War Shipping Administration
45 Broadway, New York 6, N. Y.

JULIUS J. ROSENBERG

War Shipping Administration
Commerce Building, Washington 25, D. C.

C. WILLIAMSON

Shipowners Claims Bureau
25 Broad Street, New York 4, N. Y.

At the November 29, 1945 meeting of the Executive Committee the members discussed the difficulties experienced at the 1945 dinner due to the limited capacity of the University Club and authorized the President to appoint a dinner committee to study the situation from all angles and bring in recommendations for the 1946 dinner which would avoid these difficulties. We also received the report of the committee which the President had appointed to deal with the subject of amendments to the Rules of Civil Procedure for the Federal Courts. The report was approved and forwarded to the Advisory Committee in Washington. The

same committee dealt with Senate Bill 466—House Bill 4168, which would deprive the United States District Courts of jurisdiction based on diversity of citizenship. The report of that committee in opposition to the proposed legislation was approved also and forwarded to the Chairman of the Judiciary Committee in both the House of Representatives and the United States Senate. At the November 1945 meeting of the Executive Committee consideration was given to the proposed practice of the United States Coast Guard in making available entries in log books. After some discussion the President was authorized to write to the Coast Guard stating that it was the opinion of our Executive Committee that official logs or copies of entries therein should not be given or exhibited to anyone but the shipowner or his representative, except upon order of the Court or the consent of the shipowner. (The recent reply of the Coast Guard will be discussed later at the annual meeting.) The Executive Committee also considered S. 1494—H. R. 4413 which would exempt Navy or Coast Guard vessels of special construction from the requirements as to the number, position, range or arc of visibility of lights and for other purposes. A special committee reported in opposition to the legislation. The Executive Committee approved our special committee's report and instructed the President to write to the Chairman of the committees dealing with the subject in both Houses of Congress, advising that our Association was opposed to the bills in their present form and asking for permission to appear in opposition to the bills when hearings were called. (Shortly thereafter we learned that the bill was approved in both Houses and on December 3, 1945 it was signed by the President and became Public Law 239.) At the same meeting of the Executive Committee the members discussed a proposal that the Association endeavor to obtain legislation for the purpose of having the interest provisions made similar in the Public Vessels Act and the Suits in Admiralty Act, and for the further purpose of having the jurisdiction and venue provisions of these two acts liberalized and made similar. Following the discussions, the conclusion was reached that we had better not take any action on the subject of interest now but the President was authorized to appoint and did appoint a committee to endeavor to obtain legislation amending the two acts so that under each act a litigant could sue in the district either where the ship was found or where the libellant had a place of

business, or if the libellant did not have a place of business in the United States, then in some specific district of the United States.

At the January 3, 1946 meeting, the Executive Committee considered the report of our special committee appointed to study H. R. 3861 which would provide special rules for preventing collisions of vessels navigating the Gulf Intracoastal Waterway and inland waters emptying into the Gulf of Mexico. The report against the legislation was approved. The Secretary was instructed to and did forward the report to the Chairman of the two committees in Congress and the Chairman or any member of his committee or any member of the Association instructed by that committee was authorized to appear in opposition to this legislation. A recent letter from Mr. Stiles states that considerable opposition to this legislation had developed both from within the Federal Government and from commercial interests. At the same meeting of the Executive Committee, a preliminary report was received in connection with the subject of Extension of Admiralty Jurisdiction. Also a full report was received from our 1946 Dinner Committee with recommendations. The Executive Committee approved holding the 1946 dinner at the Hotel Roosevelt, the charge of \$6.00 for members and \$8.00 for guests, together with various other miscellaneous recommendations. The members also considered the report from John W. Crandall on the power of the Supreme Court to promulgate a rule in admiralty which would make it unnecessary to secure the allowance of an appeal. The members of the Executive Committee attending agreed with the conclusion reached by Mr. Crandall that it would be necessary to secure legislation on this subject. However, the members were not in agreement as to whether or not the Association should seek such legislation. As a result it was agreed that no action would be taken by our Association with a view to obtaining this legislation. At the same meeting of the Executive Committee the President reviewed the history of recent changes made in the limitation rules in the Southern and Eastern Districts of New York, and referred to his correspondence with late Chief Justice Stone which resulted in the appointment of a committee of Federal Judges to consider amendments to the limitation provisions in the United States Admiralty Rules. The President and members present went over suggested changes in Rules 51, 52, 53 and 54. Most of these changes were due to incorporation of parts of rules from

the Southern District of New York into the United States Admiralty Rules. After discussion, the proposed amended rules were approved except for the last paragraph added to Rule 51 reading as follows:

“Limitation proceedings shall be deemed commenced upon the filing of the petition provided the other requirements of this rule have been complied with within a reasonable time thereafter.”

This provision which is new in the rules is contrary to the statute (46 U. S. Code, Section 185). It was unanimously agreed that this paragraph should be deleted from the amended rules. In all other respects Rules 51, 52, 53 and 54 as amended were approved and the President was authorized to discuss them with Circuit Judge Swan, Chairman of the Special Committee of Federal Judges. At this same meeting of the Executive Committee the members discussed the proposed legislation to extend the powers of the Supreme Court of the United States in prescribing rules of practice in admiralty. The members considered the minutes of the special meeting of our Association held in January 1942 on this general subject. In view of the previous attitude of the Association, the members of the Executive Committee present were unanimously opposed to giving the Supreme Court further power to enlarge the admiralty rules.

At the April 16, 1946 meeting of the Executive Committee, the members present considered the following subjects raised by William E. Collins: (1) whether the Association should reconsider its attitude with respect to the Brussels Convention on collisions, and (2) whether the United States Admiralty Courts should appoint Registrars to assess damages rather than having the present system of commissioners. On the first subject the members of the Executive Committee considered that the time before the annual meeting was too short for the Executive Committee to take any definite position. Accordingly, the President was instructed to suggest to Mr. Collins that if he would like to do so, he might bring the subject up for discussion at the annual meeting and/or request that a special meeting of the Association be called to reconsider the subject of the Brussels Convention. On the subject of Registrars to assess damages, the members of the Executive Committee thought that the matter should be studied by a committee of our

Association, but it was decided to leave to the new President the matter of appointing such a committee. At the same meeting of the Executive Committee the President reported that comment had been made to the effect that some committees never held any meetings and that matters referred to such committees were interred without any subsequent action, and that the Association had become more or less a debating society. He expressed the view that more interest would be aroused in the Association, and more effective action obtained if the terms of office of committees expired at the annual meeting of the Association, giving the new President an opportunity to appoint such new Chairmen and such new members as he thought wise. A similar practice had lately been adopted by The Association of the Bar of the City of New York. He stated that in his opinion an amendment of the By-laws would be necessary for this purpose. After some discussion the Executive Committee unanimously adopted the following resolution :

RESOLVED, that the third paragraph of Article 6 of our Articles of Association and By-laws be amended by adding after the words "in writing to the President" in the 4th line thereof, the words :

"and their terms of office shall expire at the next annual meeting of the Association following their appointment."

FURTHER RESOLVED, that the seventh paragraph of Article 10 of said Articles of Association and By-laws be amended by adding after the words "and directed to appoint committees" in the 6th line thereof, the words :

"whose terms of office shall expire at the next annual meeting of the Association following their appointment."

FURTHER RESOLVED, that such termination of office take effect at the annual meeting of the Association on May 3, 1946.

At the same meeting the President was authorized to appoint a nominating committee to bring in nominations for officers and Executive Committee at this meeting. At the April meeting of the Executive Committee, the 1946 Dinner Committee asked for instructions as to whether women members or women guests of members should be allowed to attend the dinner. Your Executive Committee decided (1) that women guests should not be allowed to attend the dinner, and (2) that women members should be discouraged from attending the dinner. At the same meeting

of the Executive Committee, reports were received from the Committee on Lights, Committee on Permanent Transfer of the Bureau of Marine Inspection and Navigation and the Committee on Extension of Admiralty Jurisdiction. These reports will be submitted and discussed later at this meeting. A report was also received from the Committee to Confer with the Bureau of Marine Inspection and Navigation concerning the new edition of "The Navigation Laws". No new edition of this publication is being prepared. This committee called our attention to the recodification of the United States Code which is now being prepared by the Committee on Revision of Laws of the House of Representatives. We, of course, are particularly interested in Title 46—Shipping. Some of our members have been appointed to an Advisory Committee. This Advisory Committee met in New York on April 29th and 30th. After some discussion on the subject, a committee of our Association was authorized, which committee is to be appointed by the new President.

At the May 3, 1946 meeting of our Executive Committee, the members passed on a number of applications for membership and made preparations for the annual meeting and annual dinner-meeting. The members also approved the printing at a cost of approximately \$600. and the distribution in the summer of 1946 of a new list of members, prepared in a similar manner to Document No. 295.

We report with sorrow the deaths of the following members:

Cecil Parker Stewart of New York, N. Y.	(1941)	May 29, 1945
James H. Lyons of Philadelphia, Pa.	(1935)	October 24, 1945
Wilfred Page of San Francisco, Cal.	(1920)	April 6, 1946

For some years past, the President has, upon the death of a member, appointed some member to write a memorial for printing and distribution to the membership. In recent years, it has become increasingly difficult to have these memorials prepared. The members may want to reconsider our practice on memorials.

The following resignation has been received:

Carl F. Farbach New York, N. Y.	(1939)	Effective May 1, 1945
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Three associate members and 45 active members were elected at the last annual meeting; 5 associate members and 79 active members were elected by the Executive Committee during the current year.

The total active membership is 534; associate 69; honorary 7; library 17, grand total 627. Again this year our membership has mounted to a new high.

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

- Document No. 301—Report of Annual Meeting and Dinner-Meeting, May 4, 1945
- “ “ 302—Notice of Annual Dinner-Meeting, May 3, 1946
- “ “ 303—Reminder for Annual Dinner-Meeting, May 3, 1946
- “ “ 304—Report of Recommendations of the Committee on Lights on certain Towed Vessels

Dated, New York, May 3, 1946

Respectfully submitted,

P. J. R. McENTEGART,
Secretary.

TREASURER'S ANNUAL REPORT

Balance on hand May 3, 1945.....		\$3,893.30
Income from dues—May 3, 1945 to May 3, 1946.....	\$1,649.18	
Sale of documents.....	.75	
Sale of dinner tickets.....	3,822.00	5,471.93
		<hr/>
Total income.....		\$9,365.23

Less checks drawn:

No. 617 dated May 8, 1945—to Steven- son Masson for refund on ticket	\$ 8.00
No. 618 dated May 9, 1945—to Christo- pher E. Heckman for refund on ticket.....	8.00
No. 619 dated May 4, 1945—to Ameri- can Merchant Marine Institute, Inc., for overpayment on Com- mander Ingram's ticket.....	3.00
There is also a debit of.....	1.53
representing exchange on the check of William A. Van Siclen	
Check No. 101 dated June 8, 1945—to University Club for the dinner of May 4, 1945.....	2,560.80
Check No. 102—cancelled	
No. 103 dated June 26, 1945—to Unique Printing & Stationery Co., for letterheads and envelopes.....	19.15
No. 104 dated June 26, 1945—to The Hecla Press for 750 copies of Document No. 301.....	302.94
No. 105 dated July 20, 1945—to Unique Printing & Stationery Co., for dues cards and envelopes.....	18.94
No. 106 dated August 3, 1945—to I. & S. Glick, for binding one vol- ume of the Maritime Law Association Documents from 1939-1945	4.00

No. 107	dated December 4, 1945—to Bigham, Englar, Jones & Houston, clerical, stenography, typing, postage, telephone.....	369.48
No. 108	dated December 4, 1945—to Hunt, Hill & Betts, typing, postage and telephone.....	110.35
No. 109	dated March 19, 1946—to The Hecla Press, printing 600 copies of Document 302 and 600 copies of dinner reservation form	17.17
No. 110	dated March 28, 1946—to Unique Printing & Stationery Co., printing dinner tickets.....	9.09
No. 111	dated April 2, 1946—to Unique Printing & Stationery Co., printing letterheads.....	9.85
No. 112	dated April 23, 1946—to Harold A. Mouzon for refund on dinner ticket	6.00
No. 113	dated April 23, 1946—to Unique Printing & Stationery Co., printing envelopes.....	5.61
No. 114	dated April 23, 1946—to George Inselman for refund on dinner tickets	14.00
No. 115	dated April 24, 1946—to John Ambler for refund on dinner ticket	6.00
No. 116	dated April 24, 1946—to Morris Douw Ferris for refund on dinner ticket	6.00
No. 117	dated April 24, 1946—to D. Roger Englar for refund on ticket of Archie M. Stevenson...	6.00
No. 118	dated April 26, 1946—to Louis W. Niggeman for refund on dinner tickets	14.00

[3071]

No. 119 dated May 1, 1946—to The Hecla Press for printing 650 copies of Documents 303 and 304	30.30
No. 120 dated May 1, 1946—to Arnold W. Knauth for refund on dinner tickets	14.00
No. 121 dated May 1, 1946—to R. J. Baker for adjustment on dinner tickets	2.00

Total checks drawn.....	<u>\$3,546.21</u>
Balance—May 3, 1946.....	\$5,819.02

RECAPITULATION

Balance on hand May 3, 1945.....	\$3,893.30
Income	<u>5,471.93</u>
Total.....	\$9,365.23
Less checks drawn.....	<u>\$3,546.21</u>
Balance.....	\$5,819.02

Respectfully submitted,

THOMAS H. MIDDLETON
Treasurer

Dated: May 3, 1946.

AMENDMENTS TO THE ARTICLES OF ASSOCIATION AND BY-LAWS

John W. Crandall referred to that part of the President's report in which he suggested that the efficiency of the Association could be improved if all committees appointed by the President would expire at the following annual meeting. Mr. Crandall then introduced the following resolution approved by the Executive Committee at its meeting of April 16, 1946, and recommended to the Association for adoption:

RESOLVED, that the third paragraph of Article 6 of our Articles of Association and By-Laws be amended by adding after the words "in writing to the President" in the 4th line thereof the words:

"and their terms of office shall expire at the next annual meeting of the Association following their appointment."

FURTHER RESOLVED, that the seventh paragraph of Article 10 of said Articles of Association and By-Laws be amended by adding after the words "and directed to appoint committees" in the 6th line thereof the words:

"whose terms of office shall expire at the next annual meeting of the Association following their appointment."

FURTHER RESOLVED, that such termination of office take effect at the annual meeting of the Association on May 3, 1946.

After being duly seconded the resolution was unanimously adopted.

ELECTION OF MEMBERS

The President called attention to the fact that under the amendment to the By-Laws made in 1945, the Executive Committee had during the current year elected a great many new members. He asked for nominations from the floor. There were none.

REPORTS OF COMMITTEES

COMMITTEE ON EXTENSION OF ADMIRALTY JURISDICTION

Charles R. Hickox, Chairman, reported orally and stated that he thought that the President in his report had painted a far too rosy picture of the possible success of this legislation. The bill has been introduced in the Senate but not in the House of Representatives. As a matter of fact, the last introducer in the House has refused to reintroduce the bill. Mr. Hickox concluded by stating that he thought the objections of the Department of Justice would have to be ironed out before the Senate Committee if a hearing is granted on the subject. J. Frank Staley spoke on the attitude of the Government on this legislation and the reasons behind its exclusion of the war cases. On motion duly made, seconded and carried the report of the Committee was accepted.

COMMITTEE ON AVIATION AND ADMIRALTY

Arnold W. Knauth, Chairman, submitted and discussed the following report:

General H. H. Arnold, in his Third Report on the Air Forces in the War, wrote:

“The development of international air law and custom can be advanced materially by recognition of the similarity between aviation and maritime activities.”

One of the obvious relations is in the field of salvage, search and rescue. During 1945, the Provisional International Civil Aviation Organization (PICA0) created by the Chicago conference in 1944 actually got under way; its first Assembly will meet in Montreal in May 1946. Air-Sea Search and Rescue is on its agenda. The Brussels 1938 Salvage at Sea Convention may in this connection receive the needed impetus to start it on the road to ratification. This Association has repeatedly endorsed it. A fresh resolution, addressed to the PICA0, might be helpful at this time.

The PICA0 will also try to work out an international text concerning chattel mortgages, conditional sales or trust agreements in the financing of large aircraft used in foreign services. The results may be interesting in respect of ship financing.

The drafting committee for private air law known as the Citeja has resumed its work, interrupted by war; and one of the matters it is considering is the application of General Average principles to aviation.

Respectfully submitted,

ARNOLD W. KNAUTH
Chairman
WILLIAM E. COLLINS
JOSEPH F. LULEY
BURTON H. WHITE
ROBERT W. WILLIAMS

On motion duly made, seconded and carried the report was accepted and the following resolution was adopted:

WHEREAS, the Aviation Salvage at Sea Convention was adopted at Brussels in September, 1938 by the Fourth International Diplomatic Conference on Private Air Law and signed by the delegates of sixteen States, including the delegates of the United States, Great Britain, France, Belgium, Netherlands, Switzerland, Denmark, Norway and Sweden, and

WHEREAS, the principles embodied in the Aviation Salvage at Sea Convention have repeatedly been endorsed by the Maritime Law Association of the United States as fair and just statements of the rights and duties of ships and airplanes and their owners and operators in salvage situations at sea, and

WHEREAS, in the present state of the law in many countries there is need for a uniform statement of such rights and duties, and

WHEREAS, the Provisional International Civil Aviation Organization is understood to be engaged upon a project of Air-Sea Search and Rescue procedure and a statement of rights and duties as to aircraft in peril at sea,

NOW, THEREFORE, IT IS RESOLVED, that the Maritime Law Association of the United States, in annual meeting assembled, urges upon the Provisional International Civil Aviation Organization the acceptance of the principles stated in the Aviation Salvage at Sea Convention signed at Brussels in 1938 and urges upon the members of the Provisional International Civil Aviation Organization the desirability and importance of general ratification of the Brussels Aviation Salvage at Sea Convention of 1938 by the States which they represent.

COMMITTEE ON ADMIRALTY PRACTICE

T. Catesby Jones, Chairman, submitted and discussed the following report:

Your Committee had its attention called to Recommendations which were made to the American Bar Association by its Committee on Admiralty and Maritime Law, and as this report contained certain Recommendations which this Committee recognized to be contrary to the position of this Association, this Committee considered it its duty to protest to the American Bar Association. Thereupon your Committee got in touch with the Chairman of that Committee and arranged to have action deferred on the First and Fourth Recommendations of that Committee. The First Recommendation of the Committee dealt with a Bill extending the power of the Supreme Court of the United States in prescribing Rules of Practice in Admiralty, and the Fourth Recommendation dealt with certain proposed amendments to the Supreme Court Rules in regard to Limitation of Liability. The Committee on Admiralty and Maritime Law of the American Bar Association thereupon withdrew these recommendations and agreed to defer action upon them until this Association had considered the two subjects.

On January 3, 1946, the Executive Committee of this Association met and considered the Bill extending the powers of the Supreme Court of the United States in prescribing Rules in Admiralty, and the Executive Committee took the position that it was unanimously opposed to giving the Supreme Court further power to enlarge Admiralty Rules. This matter has been reported to this meeting by the Executive Committee.

The Executive Committee also took action in connection with the Recommendation concerning Supreme Court Rules for Limitation of Liability of the Committee on Admiralty and Maritime Law of the American Bar Association, and approved the changes recommended by the American Bar Association Committee with the exception of the last paragraph of Rule 51, which paragraph reads:

“Limitation proceedings shall be deemed commenced upon the filing of the petition, provided the other requirements of this rule have been complied with within a reasonable time thereafter.”

The Committee took the position that this provision, which is new in the Rules, is directly opposed to the statute, 46 U. S. Code, §185. Accordingly, it was unanimously agreed that this paragraph should be deleted from the Amended Rules.

In other respects, Rules 51, 52, 53 and 54, as Amended, were approved, and the President was authorized to discuss the subject with Circuit Judge Swan, who was Chairman of the Special Committee of Federal Judges in charge of the matter.

With respect to Recommendation No. 3 of the Committee on Admiralty and Maritime Law of the American Bar Association, dealing with the matter of appeals in Admiralty, this matter was also discussed by the Executive Committee at its meeting on January 3, 1946, and that Committee considered a report made to the Executive Committee by John W. Crandall, Esq., in which Mr. Crandall pointed out that the matter was governed by statute and that in his opinion the requirement that a petition be filed before an appeal could be allowed was statutory, and if the requirement as to the petition should be done away with, a statute of Congress would be required. The Executive Committee accepted Mr. Crandall's report. There was a disagreement, however, among the members of the Committee as to what should be done with respect to applying to Congress for relief, but the Executive Committee took the position that no action would be taken by The Maritime Law Association to obtain such legislation.

Accordingly, your Committee recommends that the foregoing be called to the attention of the Chairman of the Committee on Admiralty and Maritime Law of the American Bar Association.

On motion duly made, seconded and carried the report was accepted and authority granted for a copy of the report to be sent to the Chairman of the Committee on Admiralty and Maritime Law of the American Bar Association.

COMMITTEE ON PERMANENT TRANSFER OF THE BUREAU OF MARINE INSPECTION AND NAVIGATION

The President reported for Chauncey I. Clark, Chairman, and stated that the Bureau of Marine Inspection and Navigation would remain with the United States Coast Guard until six months after the war is officially declared to be ended.

COMMITTEE TO CONFER WITH THE AMERICAN BAR ASSOCIATION ABOUT LAW LISTS

In the absence of any member of this Committee, the Secretary read the following report and stated that within the next few weeks he expected to file a formal application with the Chairman of the Law Lists Committee of the American Bar Association.

Your committee to confer with the American Bar Association about Law Lists reports as follows:

The situation which brought about the appointment of your committee was summarized in its report to the 1945 Annual Meeting in this manner:

“Canon 27 of the American Bar Association reads, so far as pertinent to the question referred to your committee,—

‘Publication in reputable law lists in a manner consistent with the standards of conduct imposed by these canons of brief biographical and informative data is permissible. Such data * * *, may include only a statement of the lawyer’s name, * * * ; memberships and offices in bar associations and committees thereof, * * *.’

“The Committee on Professional Ethics and Grievances of the American Bar Association in construing the term ‘bar association’ as used in this canon, has held that a lawyer may not refer in a biographical card in a law list to membership in an association which, as does ours, admits both lawyers and laymen to membership. Canon 27 is an integral part of the American Bar Association’s program in respect to law lists and it is for this reason and the ruling mentioned that the law lists have declined to accept for publication in biographical cards any reference to membership in our association.”

Since then, in December 1945, the Committee on Professional Ethics and Grievances of the American Bar Association has issued a new definition of legal society, as used in Canon 27, in these words:

“Within the meaning of Canon 27 a Legal Society is a membership organization composed predominantly of members of the Bar, the object of which is to cultivate the science of jurisprudence, promote reforms of the law and facilitate the administration of justice, and which does not itself engage in commercial or business transactions or render professional or commercial services or serve as a means of inducing or consummating commercial or business transactions with, or the rendition of professional or commercial services by, its members.”

Whether our Association comes within the new definition lies in the province of the American Bar Association’s Committee on Law Lists. In view of the new definition, your

committee recommends that a formal application be made to the Law Lists Committee of the American Bar Association for a ruling.

Respectfully submitted,

ROBERT BRANAND, JR.
FARNHAM P. GRIFFITHS
JOSEPH W. HENDERSON
ALEXANDER R. LAWTON, JR.
ROBERT MCCREARY
CARL V. ESSERY, *Chairman*

On motion the report of the Committee was accepted and ordered filed.

COMMITTEE ON LIGHTS ON CERTAIN TOWED VESSELS

Leslie C. Krusen, Chairman, reported orally and referred to Documents 300 and 304. He stated that since the last meeting of the Association he had circularized the members of his Committee. Generally speaking, the replies indicated a general concurrence in the thought that reform is required. However, Carl V. Essery thought that the new changes should not apply to the Great Lakes because of the International situation between the United States and Canada. Arnold W. Knauth stated that he did not know of any treaty between the United States and Canada on this subject but thought that the two countries had adopted parallel legislation. Captain Farwell stated that Admiral Spencer of the United States Coast Guard had called him in and said that the Coast Guard would go along with the recommendations of our Association. It was regularly moved and seconded that the report be confirmed for complete unification among the districts. The motion was carried with only one dissenting vote from H. T. Atkins.

**COMMITTEE TO CONSIDER AND REPORT ON PROPOSED
AMENDMENTS TO THE RULES OF CIVIL PROCEDURE OF
THE DISTRICT COURTS OF THE UNITED STATES**

Warner Pyne, Chairman, submitted and discussed the following report:

Under date of November 26th, 1945 the undersigned special committee appointed for the purpose stated reported in writing to the President of this Association on Amendments proposed by the Advisory Committee of the United States Supreme Court in the Rules of Civil Procedure.

The Advisory Committee printed and distributed in May 1944 a preliminary draft of proposed amendments to the Rules, and in May 1945 printed and distributed the second preliminary draft of such proposed amendments. All of the amendments proposed in the second preliminary draft were approved by the undersigned committee in its report above mentioned to the President on November 26th, 1945 with exception of the amendments involving Rules 6, 12, 14, 26, 30 (b), 31 and 34, 73 and 77. It is understood that the executive committee of this Association approved and adopted the report of this committee and so advised the Advisory Committee of the United States Supreme Court.

Inquiry on April 30th, 1946 develops that the Advisory Committee has not as yet reported to the Supreme Court; that there is now in process of preparation a report of the Advisory Committee to the Supreme Court which probably will not be completed for several months and which will be made public at the time it is presented; that the Advisory Committee received and considered the recommendations of this Association, but what weight was given to such recommendation or what the reaction thereto was of the Advisory Committee will not be divulged and cannot be ascertained prior to the time that that committee submits its report to the Supreme Court.

WARNER PYNE, *Chairman*
VERNON S. JONES
WILLIAM LOGAN
G. HUNTER MERRITT

On motion the report was approved and ordered filed.

**COMMITTEE ON S. 466—H. R. 4168—79th CONGRESS TO
DEPRIVE THE UNITED STATES DISTRICT COURTS OF
JURISDICTION BASED ON DIVERSITY OF CITIZENSHIP**

Warner Pyne, Chairman, submitted and discussed the following report:

The undersigned committee appointed by the President reported in writing under date of November 20, 1945 recommending that this Association disapprove the above mentioned Senate Bill which is the same as House of Representatives' Bill 4168. It is understood that the executive committee thereafter adopted and approved the report of this committee and informed the Senate Judiciary Committee of the disapproval of the bill by this Association. As stated in this committee's report to the President these bills, if enacted into law, would deprive the United States

District Courts of jurisdiction based on diversity of citizenship, except when it could be made to appear to the district court that from prejudice or local influence a litigant would not be able to obtain justice in the state court. This committee was of the opinion that it would be very undesirable to deprive defendants in state court suits of the right of removal because of diversity of citizenship in the very considerable number of state court suits involving questions of admiralty and maritime matters.

Inquiry on April 30, 1946 of the clerk of the Senate Judiciary Committee develops that the bill has been referred to a sub-committee, that the sub-committee has no presently scheduled meeting, and that there is no information now obtainable as to when there will be a meeting or when the sub-committee will consider this bill. Similar inquiry of the House Judiciary Committee develops that the House bill was referred last October 1 to a sub-committee, which held a hearing October 11th, that a further hearing or hearings probably will be held by the sub-committee for which no date has as yet been set.

If this Association or its executive committee desires to have a representative appear before the sub-committees of the Senate and House Judiciary Committees, the respective legislative committees should be notified.

WARNER PYNE, *Chairman.*
 VERNON S. JONES
 WILLIAM LOGAN
 G. HUNTER MERRITT

On motion the report was accepted and ordered filed.

COMMITTEE ON DISCLOSURE OF CONTENTS OF OFFICIAL LOGS

Mr. Betts referred to that part of his report as President dealing with this subject and also his correspondence with Admiral Spencer. Vernon Jones reported that in the opinion of the Committee the contents of official logs should not be disclosed to anyone but the shipowner or his representative, except upon order of the Court, or the consent of the shipowner. William L. Standard asked whether the Association had taken a position on this subject. The President read the following letter which he wrote to Admiral Spencer on November 30, 1945:

November 30, 1945.

Rear Admiral L. Spencer,
United States Coast Guard,
Washington, 25, D. C.

Deputy Chairman Merchant Marine Council
Your Ref: CG-MMC-813-3

My dear Admiral Spencer:

Referring to your letter of October 26, 1945, I brought it to the attention of the Executive Committee of the Maritime Law Association of the United States at a meeting of the Committee held here yesterday. The Special Committee that I appointed to consider this matter attended and reported orally and by letter. After considering the matter carefully the Executive Committee decided that in their opinion the official logs, or copies of entries therein, should not be given or exhibited to any one but the shipowner or his representatives, except upon order of the court or the consent of the shipowner. They were doubtful of the authority of the Coast Guard to exhibit the logs or give copies of entries therein to other persons than the shipowner or his representatives, except upon order of the court or consent of the shipowner, as expressed in the memorandum of Mr. Erskine, a copy of which I sent to Commodore Hall in my letter of September 26, 1945, and approved the letter of Mr. Clark of September 14, 1945, copy of which I also sent to Commodore Hall.

The Committee wishes to express its thanks to you for acquainting it with the intended action of the Coast Guard and the friendly spirit of cooperation in which the Coast Guard has approached the matter.

Faithfully yours,

GEO. WHITEFIELD BETTS, JR.
President

The Secretary read the following excerpt from the minutes of the meeting of the Executive Committee held on November 29, 1945:

"Recently the President appointed Chauncey I. Clark and Vernon S. Jones as a Committee to deal with the proposed practice of the United States Coast Guard in making available entries in official logs. This committee did not submit a formal report but the President received and read to the members present, the enclosed letters and memoranda from Messrs. Clark, Erskine and Jones. After some discussion, it was regularly moved, seconded and carried that the Presi-

dent write to the Coast Guard stating that it was the opinion of our Executive Committee that official logs or copies of entries therein should not be given or exhibited to anyone, but the shipowner or his representatives, except upon order of the Court or the consent of the shipowner."

Mr. Standard stated that he would like to note his objection to the action taken by the Executive Committee. James W. Ryan and Henry C. Eidenbach spoke on the subject. Then followed several motions for the appointment of new committees on the subject and for the disapproval of the action of the Executive Committee and for reconsideration. Finally Mr. Standard moved that it was the sense of the Association that anyone having an interest should be permitted to examine logs and that the Association disapprove the action taken by its Executive Committee. Mr. Prizer requested Mr. Standard to withdraw his resolution and permit Mr. Prizer to offer the following resolution in its stead:

RESOLVED, that the Association does not ratify the action heretofore taken by the Executive Committee and upon its instructions by the President with respect to proposed regulations by the Coast Guard relative to persons permitted to have access to the official log books of vessels; and

FURTHER RESOLVED, that the new President have authority to appoint a special committee to give further consideration to the subject.

Mr. Standard thereupon withdrew his motion and seconded Mr. Prizer's motion. The President put the substituted motion to vote and the same was duly carried.

**COMMITTEE TO CONFER WITH THE BUREAU OF MARINE
INSPECTION AND NAVIGATION CONCERNING THE NEW
EDITION OF "THE NAVIGATION LAWS"**

Arnold W. Knauth, Chairman, submitted and discussed the following report:

This committee was appointed in 1941 to confer with the Bureau of Marine Inspection and Navigation (which was presently transferred to the Coast Guard) to correct various errors and bring about various improvements desired in the next edition of the "Navigation Laws of the United States" published from time to time by that Bureau. Since that date there has been no new edition; the edition of 1940 is

still in circulation. No new edition seems to be contemplated at this time.

During the war, the Coast Guard assigned several men to revise the laws respecting the inspection of vessels; but that work was laid aside.

However, a closely related matter has recently been noted. The House of Representatives Committee on the Revision of the Laws, of which Congressman Keogh of New York is chairman, is sponsoring a projected revision of Title 46 of the U. S. Code entitled "Shipping". This work has progressed to the point where the Edward Thompson Company has put out a booklet entitled "Proposed Analysis for Revision of Title 46, U. S. Code—Shipping". A number of persons, including the chairman of this committee, have been invited by Congressman Keogh to attend a two day conference on April 29 and 30 at the offices of the Edward Thompson Company in Brooklyn, to consider this matter. Among those invited, I understand, are other members of this Association, Messrs. Campbell, Hupper, Englar, Lillick, Adams, Stevenson, Wakefield and Carroll, among others.

The booklet, I am informed, represents only an informal first step. However that may be, its proposals are quite alarming. It proposes to re-number all the sections, and the new numberings do not follow familiar standards of key-numbering to chapter numbers. A glance at Chapter 205 shows that it proposes to telescope the Harter Act into the Carriage of Goods by Sea Act and re-arrange all the sections. This violent operation suggests that the booklet was not prepared by someone adequately familiar with these laws. The Limitation laws are likewise violently scissored and re-pasted in Chapter 211.

Just why the law as to Pirate and Slave Trades should be put into the Part on Liability of Shipowners and Carriers may engage the ruminative mind.

Your Committee feels that this new Project, which seems to have strong backing in the Committee of Congress and in the publishers' offices, should be assigned to a new Committee with sufficient talent and prestige to deal with it as it requires.

ARNOLD W. KNAUTH, *Chairman*
LEONARD J. MATTESON
ROY W. CHAMBERLAIN

Mr. Knauth discussed the seriousness of recodification and the substitution of redrawn laws for the laws passed by Congress. He stated that this was a movement to change the laws and referred to the Internal Revenue Code where this was done. He stated that he did not like the way this revision was being handled

but that he was probably prejudiced because American Maritime Cases did not have a part in it. He concluded by recommending the discharge of the Committee on "The Navigation Laws" and the appointment of a new committee of distinguished members to deal with the revision of Title 46 of the United States Code. On motion these recommendations were accepted.

**COMMITTEE TO EXAMINE AND REPORT ON H. R. 3861 TO
PROVIDE SPECIAL RULES FOR PREVENTING COL-
LISIONS OF VESSELS NAVIGATING THE GULF
INTRACOASTAL WATERWAY AND INLAND
WATERS EMPTYING INTO THE GULF**

In the absence of any member of this Committee, the President reported that our Committee had recommended against this proposed legislation; that the recommendation had been forwarded to the Chairman of the House Committee on Merchant Marine and Fisheries and that from recent advices from the Chairman of our Committee we could assume that this proposed legislation would not become law.

**COMMITTEE FOR AMENDMENT OF SUITS IN ADMIRALTY
ACT AND PUBLIC VESSELS ACT ON LIBERALITY OF
PLACE WHERE SUITS MAY BE INSTITUTED**

The President reported on the appointment of this Committee and advised that no report had been received to date. He suggested that this was a subject that could be considered by the new administration.

**COAST GUARD COMMITTEES WITH RESPECT TO
PREPARATION OF NEW INTERNATIONAL
SAFETY AT SEA CONVENTION**

The President read the following letter from Chauncey I. Clark who represents our Association on the subcommittee dealing with the Rules of the Road:

Confirming telephone conversation, I understand from Document No. 303 dated April, 1946, page 3043, that an oral report is expected from me with reference to the above matter.

In my opinion this is not the time for a report either oral or written. The Rules of the Road Committee have met at 42 Broadway, New York, on several occasions and spent many hours in revision and clarification of the rules. Recommendations have been made to the Committee at Washington and that Committee, or one to be appointed, will meet with

other committees in Switzerland, London, New York, or elsewhere in the near future for discussion of the recommendations from the various committees.

No more definite report can be made at this time.

Captain Farwell reported that the work of the Committee is about 98% finished.

**COMMITTEE ON WORKMEN'S COMPENSATION
FOR SEAMEN**

Vernon S. Jones, Chairman, submitted and discussed the following report:

In June, 1941, the Welch Bill (H. R. 4986, 77th Congress) was introduced. In May, 1942, your Committee reported to the Association on the main features of that Bill. The Association authorized the Committee to convey to Congress the Association's disapproval of the Bill. However, no hearings were held or scheduled on the Bill and there was no occasion or opportunity for the Committee to express such disapproval. The Bill died with the expiration of the 77th Congress.

A bill identical in terms with the Welch Bill was introduced in the House by Congressman Welch on July 11, 1945, and referred to the Committee on the judiciary. It was H. R. 3761 (79th Congress, First Session). On April 10, 1946, a bill of exactly the same text was introduced in the Senate by Senator McCarran. It is S. 2051 (79th Congress, Second Session). This also was referred to Committee on the judiciary.

No hearings have been held on either the Senate or the House bill and none is scheduled. It is probable that both bills will die with the 79th Congress. Since the Association disapproved the prior Welch Bill, it is assumed that the disapproval extends to the present bills. Your Committee, therefore, requests authority from the Association to convey such disapproval if an appropriate occasion presents itself.

Dated: May 2, 1946.

Respectfully submitted,

WILLIAM E. COLLINS,
JOHN L. GALEY,
VERNON S. JONES,
Chairman.

On motion the report was approved and ordered filed and the requested authority given.

NEW BUSINESS

William E. Collins spoke with reference to the following subjects which he had taken up with the Executive Committee for consideration by the Association:

1. Registrars to assess damages in admiralty cases rather than commissioners.
2. The Brussels Convention on Collisions.

With respect to the first subject, Mr. Collins stated that he understood that a committee would be appointed by the new President to consider the matter.

On the second subject, Mr. Collins gave a history of the Brussels Collisions Convention and referred to the *Gypsum Prince-Voco* decision of the Circuit Court of Appeals for the 2nd Circuit, 1946 A. M. C. 309, 316. He also quoted from the opinion of Judge Learned Hand in that case. He pointed out that whereas we were formerly a cargo shipping or receiving country, we were now the largest shipowner. Furthermore, he stated that the adoption of the Convention would not result in an increase in rates of premiums. He referred to the fact that the main change would be in proportional fault. He made it clear that he was speaking as an individual. However, he knew that the Shipping Board had been in favor of the Brussels Convention and he thought that the War Shipping Administration was probably also in favor of it. He stated that President Roosevelt had sent the Convention to the Senate in 1939. Mr. Collins then presented the following resolution which was read by the Secretary:

WHEREAS the principles of the "Convention for the unification of certain rules in the matter of collision (1910)", generally known as the Brussels Convention, have been at various times considered by and are well-known to the members of this Association; and

WHEREAS most of the maritime nations of the world have already ratified the said Convention and incorporated the principles thereof in their law;

NOW THEREFORE, BE IT RESOLVED that it is the sense of this Association that the rules with respect to the allocation

of damages in collision cases where two or more vessels are at fault as incorporated in said Convention, should be adopted by the United States of America; and

IT IS FURTHER RESOLVED that a committee of this Association be appointed by its President with instructions:

1. To request the President of the United States to re-submit if necessary, to the United States Senate, the said Brussels Convention for the necessary consideration and action;
2. To prepare a bill for submission to the Congress of the United States to implement the terms of the said Convention;
3. To report the work and results of said Committee with all convenient speed to the President and Executive Committee of this Association;
4. That after the report of said Committee has been presented to and considered by the President and Executive Committee of this Association, a special meeting of this Association be called at the earliest date compatible with due notice to the members thereof to consider and pass upon the recommendations of said Committee.

The resolution was seconded by George C. Sprague. Henry N. Longley called Mr. Collins' attention to the action taken by the Association in 1940 (Document 252). James W. Ryan spoke in opposition to the Convention and stated that in all fairness there should be legislation on the subject in both Houses of Congress and not only in the Senate. He also stated that the Half Damage Rule was a fair one and, furthermore, if the Both-to-Blame Clause was sound the vessel owner would not need a Brussels Convention. There followed between Messrs. Ryan and Collins a discussion as to the number of countries in the western hemisphere that had approved the Convention.

A motion was made to lay the subject on the table. This motion was carried *viva voce*, there being some voices in opposition.

It was then moved that the new President appoint a committee to consider the matter of the Brussels Convention further and report at the next meeting. This motion was also carried.

ELECTION OF OFFICERS

Henry N. Longley, Chairman of the Nominating Committee, submitted the following report:

This Committee was appointed by the President to make nominations for President, Vice-President, Secretary, Treasurer, and three members of the Executive Committee.

The Committee unanimously makes the following nominations:

For President—

John C. Prizer

For Vice-President—

Archie M. Stevenson

For Secretary—

P. J. R. McEntegart

For Treasurer—

Thomas H. Middleton

For members of the Executive Committee for three years—

L. DeGrove Potter

Ray Rood Allen

Warner Pyne

The Committee thought it advisable to nominate three members located in New York for the present vacancies on the Executive Committee in view of the difficulties heretofore experienced, because of the number of out-of-town members, in securing a quorum for meetings of the Executive Committee. If the nominees for the Executive Committee named by this Committee are elected, the full Committee will include four members practicing outside New York and five members practicing in New York.

JOSEPH W. HENDERSON (by letter)

CHARLES S. BOLSTER (by letter)

A. HOWARD NEELY

HOWARD F. FANNING

VERNON S. JONES

HENRY N. LONGLEY

Chairman.

The President inquired for nominations from the floor. There were none. It was duly moved, seconded and carried that the nominations be closed; that the foregoing nominations be made

unanimous and that the Secretary cast one ballot for the election of these gentlemen to the representative offices for the respective terms named. After vote taken, the Chairman declared the nominees duly elected.

The new President, John C. Prizer, spoke briefly.

On motion duly made, seconded and carried, the meeting adjourned at 6:50 P. M. to reconvene at the Hotel Roosevelt as promptly as we could reach there.

ANNUAL DINNER-MEETING

The meeting was reconvened at 7 P. M. on May 3, 1946, at the Hotel Roosevelt for the annual dinner-meeting proceedings. 520 members and their guests were present. There were present as guests of the Association, Rear Admiral Edward H. Smith, USCG, Judge Irving Reeve of New Jersey, Judge Calvert Magruder of the United States Circuit Court of Appeals for the First Circuit, Judge Learned Hand of the United States Circuit Court of Appeals for the Second Circuit, Judge Albert B. Maris of the United States Circuit Court of Appeals for the Third Circuit, Judges John C. Knox, William Bondy, Francis G. Caffey and Edward A. Conger of the United States District Court for the Southern District of New York, and Judges Robert A. Inch, Grover M. Moscovitz and Harold M. Kennedy of the United States District Court for the Eastern District of New York.

The President, Geo. Whitefield Betts, Jr., presided and acted as toastmaster. Rear Admiral Edward H. Smith, USCG, affectionately called in the Coast Guard "Iceberg" Smith, spoke of his experiences in the northern waters and also told us of the great war and peace work of the United States Coast Guard.

Judge George Murray Hulbert of the United States District Court for the Southern District of New York was our particular guest of the evening.

Judge Hulbert was the first Congressman from New York City to be appointed on the Rivers and Harbors Committee of Congress, and he brought to completion the dredging of the channels in the Hudson River, East River and Harlem River, by modernizing the antiquated projects which had never been carried through.