

July 31, 1953

THE MARITIME LAW ASSOCIATION
OF THE UNITED STATES

SPECIAL MEETING—JUNE 30, 1953

Pursuant to the Secretary's Notice of June 9, 1953 set forth in Document No. 372, a Special Meeting of the Association was held at the Association of the Bar of the City of New York on Tuesday, June 30, 1953 at 2:30 P. M. with the President, Cletus Keating, presiding.

PRESENT

Cletus Keating, President
Henry C. Blackiston, Secretary
George F. Tinker, Treasurer

and the following 33 additional members:

Ray Rood Allen	James B. Magnor
Arthur M. Boal	John J. Martin
J. Edwin Carey	Francis J. O'Brien
John C. Crawley	Edward A. Quinlan
Robert M. Donohue	Jacob Rässner
Frederick Fish	John R. Sheneman
Julian S. Gravely, Jr.	Edward L. Smith
Louis J. Gusmano	Saul Sperling
Benjamin E. Haller	Daniel L. Stonebridge
James J. Higgins	Daniel A. Sullivan
Oscar R. Houston	John A. Sullivan
John J. Killea	William G. Symmers
Arnold W. Knauth	Charles A. Van Hagen, Jr.
Earl Q. Kullman	William Warner
Joseph Lieberman	Carl H. Watson, Jr.
Henry N. Longley	William A. Wilson
Mark W. Maclay	

... constituting a quorum

The Secretary read to the meeting the notice set forth in Document No. 372 and reminded the members that the purpose of the meeting was to consider a supplemental report of the Committee on the Supreme Court Admiralty Rules. The Secretary also read to the meeting the resolution adopted at the Annual Meeting on May 8, 1953 set forth at page 3686 of Document No. 371 which reads as follows:

RESOLVED, that the majority report of the Supreme Court Admiralty Rules Committee as set forth in Association Document No. 369 is hereby approved in principle subject to the Rules Committee communicating by mail through the Secretary with the Association's members for their views; and it is further

RESOLVED, that a supplemental report be prepared by the Supreme Court Admiralty Rules Committee in the light of the comments received from the Association members in response to the above inquiry; and it is further

RESOLVED, that a special meeting of the Association be held in June for the purpose of considering such supplemental report of the Supreme Court Admiralty Rules Committee.

Mr. William G. Symmers read the following report:

SUPPLEMENTAL REPORT
OF THE
COMMITTEE ON SUPREME COURT ADMIRALTY RULES

The Report of the Committee on Supreme Court Admiralty Rules circulated to the membership in April, 1953 as M. L. A. Document No. 369, was debated and approved in principle by the Association at the annual meeting on May 8, 1953. It was resolved, however, that further opportunity be afforded the members to communicate their views to the Committee, and that a supplemental report be submitted by the Committee for consideration at a Special Meeting of the Association to be convened for this purpose on June 30, 1953. The Committee has been increased from fourteen to twenty-two members as more representative of the Admiralty Bar throughout the country.

As heretofore indicated, the effort of your Committee has been (1) to propose needed amendments to the present Admiralty Rules including those suggested by the Association in Document No. 348, September, 1951; (2) to meet expressed judicial desires and trends toward adoption in Admiralty practice of many of the Federal Rules of Civil Procedure; (3) to stem the alarming and confusing trend of piece-meal and non-uniform adoption in Admiralty cases of various of the F. R. C. P. by the District Courts and Courts of Appeal throughout the country through their adoption of non-uniform local

rules and decisional law; (4) to define and delimit the extent to which the Admiralty Rules may accommodate by adoption so far as practical such of the F. R. C. P. as may supplement, conform with, or usefully implement Admiralty practice.

Pursuant to the Secretary's notice to members dated May 14, 1953, in which comments were invited in respect of Document No. 369, we have received numerous communications. While some of these communications have indicated outright opposition to the form of the proposals and have expressed the view that whatever F. R. C. P. are adopted in the Admiralty Rules should be restated and set forth at length in the Admiralty Rules rather than be adopted by reference, a large majority of the letters from members have indicated willingness to support the Committee's report as preferable to the existing situation and trends, and as clearly preferable to a more generalized adoption of F. R. C. P. as heretofore supported by some members of the Judiciary and by various Attorneys General in the past several years.

Your Committee has made efforts to arrive at common ground with the Committee on Admiralty Rules of the Judicial Administration Section of the American Bar Association in order that there might be unanimity before that Association's House of Delegates when convened at Boston in August of this year. This Committee of the Judicial Administration Section is under the able and sympathetic chairmanship of Judge Richard Hartshorne, of New Jersey, and includes as the other members Judge Charles E. Clark, Judge Irving R. Kaufman, and former Judge Simon H. Rifkind. We have not been altogether successful in our effort, because while the proposed amendments contained in Document No. 369 represent the joint and concurring product of a subcommittee of our Committee, represented by Mr. Charles Fiddler, and of the Judicial Administration Section's Committee, represented by Judge Rifkind, the latter Committee now suggests that Document No. 369 is no more than a worthy effort reflecting progressive thinking within our Association, and that it does not go quite far enough. We understand that the Committee of the Judicial Administration Section, accordingly, proposes to introduce in the House of Delegates a resolution calling upon the Supreme Court to appoint an Advisory Committee for the purpose of revising the Admiralty Rules, and to suggest that the Advisory Committee be composed of judges, admiralty lawyers, and law school professors. The recommendation to include Admiralty lawyers on the proposed Advisory Committee is seemingly a concession from the viewpoint of the Committee of the Judicial Administration Section.

At a lengthy meeting of your Committee on June 24, 1953, there were reviewed many of the detailed suggestions and comments received from the membership of the Association and from members of the Committee in respect of Document No. 369. Those in attendance were unanimous in their agreement regarding certain

suggested changes. It has been found advisable to give other suggestions further consideration and study. Largely, however, the changes to be made in Document 369 relate to editorial improvements, such as elaboration of explanatory footnotes, added cross-references, and general refinement to assure as exhaustive and complete a finished product as lies within the talents of the draftsmen. To this end, a subcommittee of Messrs. Crawley, Fiddler and Knauth is engaged in endeavoring to create a more complete and polished product, within the framework of Document No. 369.

RECOMMENDATIONS

1. Your Committee recommends that the Association reaffirm its approval in principle of the proposed amendments to the Supreme Court Admiralty Rules as are set forth in Document 369, but that the Rules Committee be authorized to make such further changes in form and context as in the consensus of the Committee are warranted, and that the Committee be authorized in behalf of the Association to take such steps as it may deem to be appropriate to seek the adoption by the Supreme Court of the United States of the suggested revision of the Rules.

2. Should the Supreme Court consider it desirable to appoint an Advisory Committee, we recommend that the Maritime Law Association urge that the Advisory Committee include in its membership lawyers experienced in admiralty trial practice.

WILLIAM G. SYMMERS, Chairman
 CHARLES S. BOLSTER, Vice Chairman
 LANE SUMMERS, Vice Chairman
 JOHN C. CRAWLEY, Vice Chairman
 EDWARD R. BAIRD, of Norfolk
 GEORGE WHITEFIELD BETTS, JR., of New York*
 ARTHUR M. BOAL, of New York
 STUART B. BRADLEY, of Chicago
 JOHN R. BROWN, of Houston
 CHARLES N. FIDDLER, of New York
 J. FRANKLIN FORT, of Washington
 CODY FOWLER, of Tampa
 LASHER B. GALLAGHER, of Los Angeles
 JOSEPH W. HENDERSON, of Philadelphia
 LYMAN HENRY, of San Francisco
 FRANCIS H. INGE, of Mobile
 ARNOLD W. KNAUTH, of New York
 RUSSELL A. MACKAY, of San Francisco
 ROBERT G. MCCREARY, of Cleveland
 FREDERICK W. MUELLER, of New York
 FRANK B. OBER, of Baltimore
 CLAUDE E. WAKEFIELD, of Seattle
 BENJAMIN W. YANCEY, of New Orleans

* Did not join in Report.

The President then invited a discussion of the foregoing report.

Mr. Arnold W. Knauth discussed a number of the specific rules and the problems of the Committee in adopting them for use in admiralty practice.

Mr. Edward L. Smith urged that this Association express no view at this time as to whether a Supreme Court Admiralty Rule, dealing with incorporation by reference of the Federal Rules of Civil Procedure into the Admiralty Rules, should be adopted.

Mr. John J. Killea stated that he opposed approving in advance the report of our Rules Committee since there will be refinements and modifications of the report in the future.

Mr. Jacob Rassner urged that this Association take a definite stand at this time rather than give an approval subject to qualifications which would leave the matter in an uncertain situation for an additional undetermined period of time. He stated that the Admiralty Committee of the Federal Bar Association, of which committee he is Chairman, approves the report of Mr. Symmers' committee.

After full discussion and on motion of Mr. William G. Symmers, seconded by Mr. Henry N. Longley, it was:

RESOLVED, that The Maritime Law Association of the United States hereby reaffirms its approval in principle of the proposed amendments to the Supreme Court Admiralty Rules as set forth in Association Document No. 369; and it is further

RESOLVED, that this Association's Committee on the Supreme Court Admiralty Rules be and it hereby is authorized to make such further changes in form and context as in the consensus of the Committee are warranted; and it is further

RESOLVED, that said Committee be and it hereby is authorized in behalf of this Association to take such steps as it may deem to be appropriate to seek the adoption by the Supreme Court of the United States of the suggested revision of the rules; and it is further

RESOLVED, that should the Supreme Court consider it desirable to appoint an advisory committee, this Association hereby urges that such advisory committee include in its membership lawyers experienced in admiralty trial practice.

There being no further business the meeting was, on motion duly made and seconded, adjourned.

HENRY C. BLACKISTON,
Secretary.