

# MARITIME LAW ASSOCIATION OF THE UNITED STATES.

APRIL 25, 1912.

*To the Members of the Association:*

The Committee appointed at the annual meeting of the Association in May, 1911, to examine and report on two legislative bills in which the Association was interested has attended to its duties and begs leave to report as follows:

## I.

The first bill intrusted to the Committee was a so-called redraft of the Association's bill permitting suits against the United States for damage done by vessels of the United States. This redraft was made in the Senate Committee on the Judiciary and the measure introduced in the 61st Congress by Senator Brandegee and Mr. Parsons, but too late to be acted upon. The redraft was an attempt to meet some of the objections made to the original bill of the Association which had previously been introduced in Congress and referred to the Committees on the Judiciary by the respective Houses. A copy of the redrafted bill is attached hereto. The redraft follows the Tucker Act more closely than did the original bill, and generally speaking is broader than the Association's bill in that the right of action is not given to the owners of American vessels alone or the damages limited to those resulting from an actual physical contact with a vessel of the United States. It provides, however, that there shall be a recovery only for injury to property.

Your Committee believe that the redraft is a better measure than the original bill of the Association and recommends that the redraft be adopted by the Association and again introduced in Congress. Section 3, providing for the removal of causes at the instance of the United States, was drawn with

the express purpose of meeting a serious objection to the Association's bill, and the fact that the redraft has already been considered by one Committee of Congress is an indication that there is a fair chance that the measure will be acted upon favorably if introduced again.

## II.

The second bill intrusted to the Committee related to the maintenance of actions for death in maritime cases, and had been adopted by the Association in 1903. The bill was introduced in the 61st Congress, but was not acted upon favorably by either the Senate or the House Committee, and your Committee found that it was not satisfactory to many members of the Association. The Committee accordingly undertook to frame a new measure, and in order to secure as wide a discussion of the subject as possible, submitted to the Association at the dinner in February last a provisional redraft, which was thereafter printed in a circular sent out by the Secretary to all members of the Association.

Appended hereto is a draft of a bill made by the Committee as a result of the criticisms and suggestions received in response to the circular above mentioned. And the Committee presents this new draft for adoption by the Association, believing that it reconciles the views of a majority of the members upon the subject, and is as comprehensive a bill as the Association could hope to have enacted, at least in the first instance. From the replies received by the Committee it seemed to be the consensus of opinion that the bill should be made as simple as possible, and the Committee has endeavored to keep this opinion in mind. And while it might be desirable for the sake of uniformity to have a federal law providing a right of action for all the courts of the United States, both at law and in admiralty, many members of the Association have felt that a bill of this scope would be likely to meet with opposition, whereas the general purpose of the Association would be served if a right of action were conferred only in the admiralty, but without limit as to the waters included as in the original

bill of the Association. The bill now submitted by your Committee is accordingly limited to the United States courts in admiralty.

All of which is respectfully submitted.

FITZ-HENRY SMITH, JR.,  
GEORGE WHITELOCK,  
JOHN M. WOOLSEY,  
*Committee.*

### A BILL

#### PERMITTING SUITS AGAINST THE UNITED STATES FOR DAMAGES CAUSED BY VESSELS OWNED OR OPERATED BY THE UNITED STATES.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the owner or charterer of any vessel and the owner of any cargo or property laden thereon shall have the right to sue the United States for any loss, damage, or injury to property, due in whole or in part to the fault of any vessel owned or operated by the United States. Such suit shall be brought in the District Court of the United States, sitting in admiralty, for the district in which the parties so suing, or any of them, may reside, or in which the vessel charged with fault may be found. Such district court is hereby empowered to enter a decree for the amount of such loss, damage, or injury against the United States upon the principles of liability obtaining in like cases between private parties in suits in admiralty, and with the same rights of appeal as now exist in other civil causes of admiralty and maritime jurisdiction: Provided, That this Act shall not extend to cases occurring prior to the passage hereof, nor in any case shall any such suit be brought more than two years after the loss, damage, or injury shall have occurred.

SEC. 2. That jurisdiction be, and hereby is, conferred upon the several courts of the United States for the purposes herein-before specified.

SEC. 3 That in any suit brought under this Act the libellant shall file his libel, duly verified, with the clerk of the district court having jurisdiction of the cause and shall forthwith serve a copy thereof on the United States attorney for such district and mail a copy thereof, by registered mail, to the Attorney-General of the United States, and shall file with the clerk of said district court an affidavit of such serving and mailing: Provided, however, That if the vessel of the United States charged with fault is not within the district in which the libel is filed, the Attorney-General shall have the right, within twenty days after the receipt of a copy of the libel, as provided herein, to remove the cause to another district in the United States where said vessel then is or to which, if at sea, she is then bound, and thereupon the libel and all other documents on file in the suit shall be transmitted by the clerk of the court in which they are filed to the clerk of the court to which said cause is removed, and thereafter such suit shall proceed as if it had been begun in the district to which the cause has been so removed.

SEC. 4. That if the United States shall contest any suit brought hereunder, the courts may award to the successful party against the losing party the necessary disbursements incurred by the former for typewriting and printing the record in such cause.

SEC. 5. That the Attorney-General shall report to the Congress at each session thereof the suits under this Act in which final decrees shall have been rendered since the previous session, together with the disbursements taxed therein, unless an appeal shall have been taken therefrom or the time to appeal therefrom shall have expired. From the date of such final decree interest shall be allowed on the amount recovered and disbursements at the rate of four per centum per annum until paid.

## A BILL

RELATING TO THE MAINTENANCE OF ACTIONS FOR DEATH IN  
THE COURTS OF THE UNITED STATES IN ADMIRALTY.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled:

SECTION 1. That whenever the death of a person shall be caused by neglect, default or other wrongful act on the high seas, Great Lakes or any navigable waters of the United States, the legal representative of the deceased may maintain an action for damages in the United States District Court in Admiralty, for the exclusive benefit of the decedent's wife, husband, or dependent next of kin against the vessel, person, or corporation which would have been liable to an action in favor of the deceased by reason of such act if death had not ensued.

SECTION 2. The recovery to be allowed by the Court in such an action shall be a fair and just compensation to the party or parties for whose benefit the action is brought and shall be apportioned among them by the Court in proportion to the pecuniary damage they may severally have suffered by reason of the death of the person by whose representative the action is brought.

SECTION 3. Such action shall be begun within one year after the death of the deceased, unless during that period there be no reasonable opportunity offered for securing jurisdiction of the vessel, corporation or person sought to be charged; provided, however, that after the expiration of a period of one year from the decedent's death, the right of action hereby given shall be deemed to have lapsed within one month after a reasonable opportunity to secure jurisdiction has offered.

SECTION 4. If a person die as the result of neglect, default or other wrongful act occurring on the high seas, the Great Lakes or any navigable waters of the United States during the pendency of an action to recover damages for personal injury in respect of such act, the personal representative of the decedent may be substituted in the place and stead of the decedent

as a party to such action and the action may proceed as an action under this statute.

SECTION 5. That this Act shall not abridge the rights of shipowners and others to avail themselves of the provisions of sections forty-two hundred and eighty, forty-two hundred and eighty-three, forty-two hundred and eighty-five, forty-two hundred and eighty-six, and forty-two hundred and eighty-seven of the Revised Statutes of the United States, and Acts amendatory thereof and supplementary thereto relating to limitation of liability.

SECTION 6. This Act shall supersede in the Courts of the United States in Admiralty the provisions of any and all State statutes in all actions hereafter brought therein for death resulting from neglect, default or other wrongful act on the high seas, the Great Lakes or any navigable waters of the United States, wherever the death may occur, and all such actions shall be deemed to be within the admiralty and maritime jurisdiction of the United States District Court, and in all such actions contributory negligence of the decedent shall have the same force and effect as if the action were brought by the decedent to recover for personal injuries sustained by reason of the negligence on which the action is based.