

REPORT

OF A

SPECIAL COMMITTEE OF THE MARITIME LAW ASSOCIATION, NOVEMBER 13, 1900.

TO THE MARITIME LAW ASSOCIATION:

At the annual meeting of the Association we were appointed a Committee to consider and report upon the advisability of National legislation conferring right of action for loss of life caused by negligence at sea.

We have found that a Bill designed to that end has been introduced in the House of Representatives by Mr. Boutell, of Illinois, and that it has been referred to the Committee on the Judiciary. A copy of the Bill is submitted with this report.

Before any action was taken by this Committee, it was learned that the Committee on Jurisprudence and Law Reforms of the American Bar Association had prepared a report to their Association, approving and commending the Boutell Bill as drawn.

We entered into correspondence with the Hon. R. S. Taylor and with Mr. Moorfield Storey of that Committee, with the result that they modified their report, so that, in lieu of entire approval of Mr. Boutell's Bill, they suggested the advisability of including in the Bill by amendment "vessels carrying freight, and injuries to property "as well as persons," and of omitting the provision for jury trials if the proceedings are taken in Admiralty, and of limiting the time for the institution of suits to one year instead of five years.

The report, as thus modified, was accepted and adopted by the Bar Association at its annual meeting.

It is the opinion of your Committee that a remedy should be accorded in respect of loss of life at sea, and that pro-

cedure should be established for the enforcement of that remedy in the Admiralty courts, either *in personam* or *in rem*, as well as in the law courts.

Legislation, in order to be effective, must be National legislation, and it seems that such legislation may be properly had which will govern all American vessels at sea or abroad, and all foreign vessels which may be bound to or from the United States.

It is probable that National legislation, except as affecting Admiralty jurisdiction, could not supplant the statutes of the several States in local waters in respect of local commerce, though it seems that Congress might authorize the remedy accorded by the State statutes to be enforced *in rem*, when the tort is maritime in its character.

As legislation now stands in this State, and in most other States, there is a remedy accorded in respect of loss of life by negligence within the limits of the State, but the same is enforceable in the Admiralty courts only *in personam*.

While your Committee generally approve the purpose of the Boutell Bill, they suggest that it should receive modification in the following respects:

FIRST.—Owners of vessels carrying only cargo should be under the same measure of liability for loss of life as the owners of vessels carrying passengers, especially as relief is not restricted to passengers only.

Under the Bill, as drawn, there would be a remedy against the shipowners whenever their vessel was the instrument of injury, provided she happened to be carrying passengers, although the lives lost should be those of the crew of a freight vessel with which there had been a collision. On the other hand, if the freighter should, by her fault, cause the death of passengers upon a vessel with which she collided, there would be no relief against the owners of the freighter.

SECOND.—It is desirable to so define the rights of recovery that there may be no question as to whether the Mas-

sachusetts basis, which measures the relief by the extent of the suffering of the deceased prior to death, or the New York basis, which measures the relief by the dependence and pecuniary loss of the surviving kin, or the basis of some other of the States, should be applied.

Upon this head, we are of the opinion that the measure of damages provided in the New York statute, to wit, "fair and just compensation for the pecuniary injuries resulting from the decedent's death to the person or persons for whose benefit the action is brought," affords a measure that may be wisely adopted.

THIRD.—Jurisdiction is properly given to United States Courts, either at law or in Admiralty; but it seems unwise to accord to the litigant who seeks relief in the Admiralty side of the court, the right to a trial by jury. If the litigant wants a trial by jury, let him bring his action at law. It would be a most disturbing influence to introduce a jury in Admiralty courts. The practice of the court has no room for a jury.

FOURTH.—The amount of the recovery should be limited.

FIFTH.—The period of limitation within which suits may be brought should not exceed one year, or at most two years. The actions are peculiarly of a class in which preservation of proofs by a defendant are difficult.

SIXTH.—There should be a distinct provision in the incorporated Bill preserving the privileges accorded to shipowners and others by Sections 4282, 4283, 4284, 4285, 4286, 4287 of the Revised Statutes of the United States.

November 13, 1900.

WILHELMUS MYNDERSE,
ENOS N. TAFT,
GEORGE B. ADAMS.

IN THE HOUSE OF REPRESENTATIVES.

MARCH 6, 1900.

MR. BOUTELL, of Illinois, introduced the following bill; which was referred to the Committee on the Judiciary and ordered to be printed.

A BILL

In relation to steamship companies and other carriers of passengers and freight.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That whenever the death of a person, or an injury to any
4 person, shall be caused by the wrongful act, neglect, or de-
5 fault of any ship or navigation company, corporation, indi-
6 vidual, or individuals carrying passengers between the several
7 ports of the United States, or between the ports of the United
8 States and foreign countries, either upon the high seas, or in
9 foreign waters, or the Great Lakes, or whether in foreign or
10 domestic vessels, or caused by or through the wrongful acts,
11 neglect, or default of the servants, officers, or crews of such
12 carrying vessels, actions for damages shall be against such
13 ship or navigation company, corporation, individual, or indi-
14 viduals owning or navigating such vessels, in the courts of

1 the United States, where service can be had on such offend-
2 ing ship or navigation company, corporation, individual, or
3 individuals, under the laws prevailing where suits may be
4 brought, and such suits may be in rem or in personam.

5 SEC. 2. That whenever the death of a person shall be
6 caused by the wrongful acts, neglect, or default set forth in
7 the first section of this Act, an action therefor shall survive
8 and shall be brought by and in the names of the personal
9 representatives of such deceased persons for the benefit of the
10 next of kin of such deceased person, and either party to such
11 actions shall be entitled to a jury as in suits at common law.

12 SEC. 3. That the United States district courts in admi-
13 ralty and the circuit courts of the United States in actions on
14 the case shall have jurisdiction in all such suits, and all actions
15 for such deaths or injuries contemplated by this Act shall be
16 instituted within five years from the time the actions accrued.