

THE  
MARITIME LAW ASSOCIATION OF THE UNITED STATES.

NEW YORK, May 8, 1916.

The Seventeenth Annual meeting of the Association was held at the Association of the Bar of the City of New York, No. 42 West 44th Street, New York City, on May 5, 1916.

There were present: Hon. George C. Holt, President, Hon. Harrington Putnam, Hon. Charles M. Hough, Mr. Everett P. Wheeler, Mr. Lawrence Kneeland, Mr. C. C. Burlingham, Mr. A. Gordon Murray, Secretary.

Judge Holt expressed the view that as he had held the office of President since 1912, it might probably be for the best interests of the Association if another were elected, whereupon on motion of Judge Hough, duly seconded, the Hon. E. Henry Lacombe was unanimously elected President.

Mr. A. Gordon Murray was re-elected Secretary and Treasurer.

On motion of Mr. Wheeler, seconded by Judge Putnam, Article 4, of the By-Laws was amended by striking out after the words "Executive Committee of" the word "three" and inserting the word "five" so that the section should read:

"4th. The officers of the Association shall be a President, a Secretary, a Treasurer, and an Executive Committee of five, together with the President *virtute officii*."

Amended May 3, 1901, and May 5, 1916.

Mr. Kneeland expressed the view that he should be relieved of the position of an Executive Committeeman as he has served since 1911, whereupon, on motion duly made and seconded, an Executive Committee was elected, as follows:

- Everett P. Wheeler,
- Fitz-Henry Smith, Jr.,
- Robert M. Hughes,
- George B. Ogden,
- D. Roger Englar.

The Secretary and Treasurer made his report which was accepted and ordered to be placed on file and to be printed. It is annexed hereto, pg. 3.

The election of the new members enumerated in the Secretary's report was confirmed and ratified.

Everett P. Wheeler, Chairman of the Committee appointed November 22, 1915, to consider the subject of the so-called Seamen's Bill in reference to existing treaties, made a report for the Committee, which was accepted.

Judge Putnam submitted a minority report opposing any attempt to restore the remedy of imprisonment of deserting seamen.

The first resolution was approved as reported, and adopted.

The second resolution was unanimously adopted.

For the third resolution Judge Hough offered a substitute which was accepted by the Committee and the substitute was seconded by Judge Putnam. The amended report is annexed, pg. 6.

It was moved and seconded that a copy of the resolutions with a statement be printed and distributed to members of both houses of Congress.

The Committee on the Statute for Death at Sea reported verbally through Judge Putnam. The report of the Committee is annexed, pg. 14.

The action of the Executive Committee in opposing Senate Bill No. 3055 proposing the appointment of Clerks of the United States District Court by the President instead of by the Judges of the Courts was approved and ratified.

Mr. Albert Strauss was elected a member of the Association. Upon motion, the meeting adjourned.

A. GORDON MURRAY,  
*Secretary,*  
 No. 68 William Street,  
 New York City, N. Y.

TO  
THE MARITIME LAW ASSOCIATION OF THE  
UNITED STATES

A. GORDON MURRAY, Secretary of the Maritime Law Association of the United States, submits his report for the year ending April 30, 1916, as follows:

There have been three meetings of the Association during the year, as follows, to wit:

Annual meeting May 7th, 1915.

Fall meeting November 22d, 1915, followed by a dinner at Delmonico's, 44th Street & Fifth Avenue, New York.

Special meeting December 31, 1915.

The Executive Committee considered a request from several members to enter a protest in Congress to Senate Bill No. 3055, which provides for the appointment of Clerks of the United States Courts by the President of the United States instead of the Judges of the United States Courts.

The President, at the request of the Committee, prepared a memorandum in opposition to such change and submitted it to the Judiciary Committee of the Senate.

The Secretary is in receipt of a letter from the Chairman of the Committee, Hon. Charles A. Culberson, dated April 6, 1916, stating that no action had been taken on Bill S. 3055 and that he knows nothing definite as to the probability of action thereon.

The Committee on the Loss of Life Statute has been active and submits a separate report.

The Secretary regrets to state that resignations have been received during the year from:

Charles Warren Clifford, Esq., New Bedford, Mass.

Herbert K. Oakes, Esq., 1329 Rockefeller Building, Cleveland, Ohio.

J. Rodman Paul, Esq., 505 Chestnut St., Phila., Pa.

Henry M. Rogers, Esq., 89 State Street, Boston, Mass.

Clarence Bishop Smith, Esq., 27 William St., New York.

The following new members were added during the year:

Charles Burlingham, Esq., 27 William Street, New York.

II. Alan Dawson, Esq., 505 Chestnut St., Phila., Pa.

Charles F. Dutch, Esq., 73 Tremont St., Boston, Mass.

Oscar R. Houston, Esq., 64 Wall Street, New York.

Howard M. Long, Esq., 1135 Land Title Building,  
Phila., Pa.

Karl S. Mayhew, Esq., Cotton Exchange Building, New  
York.

A. J. McMahon, Esq., 90 West Street, New York.

Benjamin W. Wells, Esq., 27 William Street, New York.

The membership of the Association at present, amounts to twenty-seven (27) Associate members and one hundred and forty-eight (148) Active members, making a total of one hundred and seventy-five (175) members.

The Secretary is anxious to assemble a library not only of proceedings of the meetings of the Association, but of the conferences which have been held in various cities abroad. He is engaged at present on the task and at a subsequent meeting hopes to be able to make some substantial report as to the volumes of reports in hand and those which are missing.

The Secretary deems it his duty to call the attention of the Association to the fact that he has attempted to communicate with Louis Franck, Esquire, Honorary Resident Secretary of the International Maritime Committee, whose permanent address is: Rue des Escrimeurs 30, Antwerp, Belgium, but that his letters have been returned, unopened, stamped in French: "Destination inaccessible"—Retour al envoyeur." The communications went forward in an ordinary postpaid wrapper entrusted to the United States Mail, and were undoubtedly stopped on account of the war in Europe, in consequence of which the Secretary has not been able to communicate with Mr. Franck.

Respectfully submitted,

A. GORDON MURRAY,

*Secretary.*

TO  
THE MARITIME LAW ASSOCIATION OF THE  
UNITED STATES.

A. GORDON MURRAY, as Treasurer of The Maritime Law Association of the United States, submits his annual report for the year ending April 30, 1916, as follows:

## RECEIPTS.

May 20, 1915.

|   |          |                   |
|---|----------|-------------------|
| Balance from E. G. Benedict.....              | \$430.12 |                   |
| Received during the year for annual dues..... | 569.75   |                   |
| Refund on Dinner at Delmonico's.....          | 35.00    |                   |
|   |          | <u>\$1,034.87</u> |

## DISBURSEMENTS.

|  |        |                 |
|--|--------|-----------------|
| Exchange on checks during year.....                              | \$1.30 |                 |
| Rubber Stamps .....  | 1.50   |                 |
| Librarian, Bar Association, Rooms.....                           | \$4.00 |                 |
|  | 5.05   |                 |
|  |        | <u>9.05</u>     |
| Printing for year.....   | 128.65 |                 |
| Binding .....  | 3.50   |                 |
| Clarence B. Smith, refund on check for \$10.00<br>for dues ..... | 5.00   |                 |
| Telegrams, postage and expenses during year..                    | 32.49  |                 |
| Everett, Clarke & Benedict.....                                  | 5.59   |                 |
| Dinner at Delmonico's.....                                       | 236.75 |                 |
| 3 dozen Place Cards.....   | .75    |                 |
| H. F. Brooks, stenography.....                                   | 6.34   |                 |
|  |        | <u>\$430.92</u> |

|                           |                 |
|---------------------------|-----------------|
| TOTAL RECEIPTS .....      | \$1,034.87      |
| TOTAL DISBURSEMENTS ..... | 430.92          |
|                           | <u>\$603.95</u> |

BALANCE ON HAND.....

TO

THE MARITIME LAW ASSOCIATION OF THE  
UNITED STATES.

Your Committee appointed to consider the Seamen's Bill and its relation to the Convention of London, signed January 20, 1914, respectfully report as follows:

The conference which adopted this convention was called in consequence of the loss of the Titanic. The principal maritime states took part in it. Eleven delegates from the United States including Senators Burton and Lewis, and Hon. J. W. Alexander, Chairman of the Committee on Merchant Marine, attended. The conference agreed unanimously upon a convention, which was transmitted by Mr. Bryan, who was then Secretary of State to the President, March 13th, 1914. We quote from his letter to the President:

"The convention embodies the unanimous conclusions of the International Conference on Safety of Life at Sea which met at London from November 12, 1913, to January 20, 1914. The conference was comprised of the representatives of the 14 principal maritime nations and of three of the self-governing British dominions. It was called in a large measure upon the suggestion of the Government of the United States, and the advice of the American delegation was influential upon a great many particulars which entered into this convention. The conference was composed of men trained to the sea and experienced in the administration of the laws relating to maritime affairs, and its unanimous conclusions carry weight on the matters of which the convention treats. The American delegates, who took an active part in the framing of every article and regulation of the convention, are agreed that the international standards for the safety of life at sea thus proposed to be established are higher than those of any nation now in force, and that the ratification of the convention will secure benefits for humanity by the joint action of maritime nations which could not be accomplished by any one nation, however powerful upon the sea. There are probably points in detail in which the convention may be criticised especially by particular interests, but in its entirety it is high testimony

to the will and ability of nations to put aside special and local considerations in order to promote the progress and welfare of mankind. By its terms the ratifications shall be deposited not later than December 31, 1914. Early and favorable action, accordingly, is recommended."

This was transmitted by the President to the Senate March 17th, 1914. While this convention was under consideration by the Senate, a bill entitled "An Act to promote the welfare of American seamen in the merchant marine of the United States; to abolish arrest and imprisonment as a penalty for desertion and to secure the abrogation of treaty provisions in relation thereto; and to promote safety at sea," was under consideration in the House of Representatives. Mr. Furuseth, from the International Seamen's Union of America, opposed the ratification of the convention, and urged the passage of the bill referred to. The convention, however, was ratified by the Senate December 16th, 1914. We learn this from a letter from the Secretary of the Senate. We have similar information from Mr. Alexander. On the other hand, we have a letter from the Department of State, stating:

"This convention has not yet been ratified by the Senate nor has it been proclaimed by the President. It is not included in the official publication of conventions and treaties that were ratified during the Sixty-Third Congress 1913-1915."

The Seamen's Bill referred to passed both houses and was signed by the President March 4th, 1915.

Article 71 of the convention provides:

"This convention shall be ratified and the instruments of ratification accompanied by the schedule specified in Article III shall be deposited at London not later than the 31st of December, 1914. The British government shall give notice to the ratification, and shall furnish a copy of each schedule to the governments of the other Contracting Parties."

We learn from the Department of State that

"The following countries have deposited at London their ratifications of the international convention relating

to safety of life at sea, which was signed at London January 20, 1914:

“Great Britain, the Netherlands, Norway, Spain and Sweden.”

What it was that induced the Secretary of State of the United States to refrain from depositing at London the ratification of the convention we cannot tell. Whether Mr. Furu-  
seth had influence enough in the State Department to induce the Secretary to withhold the necessary action, we may conjecture but we cannot state. The fact remains clear, however, that the convention, so far as the United States is concerned, is not in force.

Your Committee concurs fully in the statements before quoted, made in the letter from the Secretary of State to the President in March, 1914. We cordially echo the language of the President in his recent address at Pittsburg:

“It amazes me to hear men speak as if America stood alone in the world and could follow her own life as she pleases.”

We have, at the request of Mr. Alexander, and with the authority of the Executive Committee of this Association, prepared a statement of the differences between the Seamen’s Act and the Convention of London. We append a statement of these differences to this report.

In view of the facts before stated and of the analysis thus presented, we recommend for adoption by the Association, the following resolutions:

*Resolved:* That this association heartily concurs in the statements and recommendations made by the Secretary of State to the President March 13, 1914, approving and recommending the adoption of the International Convention on Safety of Life at Sea, signed at London January 20, 1914.

*Resolved:* That this association respectfully requests the President to communicate with the governments of the various countries which have already ratified the said convention, and to request that the ratification by the President and Senate of the United States be now depos-



ited at London with the same force and effect as if it had been there deposited in December, 1914.

*Resolved:* That this association respectfully urges upon Congress that this country should not attempt to interfere with the discipline or contractual arrangements of any foreign ship without international agreement. We therefore respectfully request that changes in our shipping laws affecting foreign vessels in respect of seamen's wages be not made except as the result of treaty or convention, and that existing legislation so affecting foreign commerce be repealed.

All of which is respectfully submitted.

New York, April 19, 1916.

EVERETT P. WHEELER,  
*Chairman.*

STATEMENT OF THE DIFFERENCES  
BETWEEN  
THE ACT OF MARCH 4, 1915, COMMONLY CALLED  
THE "SEAMEN'S ACT" AND THE INTER-  
NATIONAL CONVENTION RELATING  
TO SAFETY OF LIFE AT SEA.

FIRST: The general and most important difference is that the Seamen's Act applies to merchant vessels of the United States engaged in foreign trade, many requirements which are not, and cannot, be imposed upon the vessels of other nations, yet American ships compete with vessels of other nations in the foreign trade and ought to be able to compete as far as possible on equal terms. Without enumerating all the differences, we specify the following:

1. Section 4 of the Act provides that at every port of call a seaman shall be entitled to receive one-half of the wages which he then has earned. This requirement would prevent a captain from refusing payment of money in a port of call to a seaman whom he knew would waste money on shore and who might thereby easily be led to desert or get into such a state of intoxication that he would be unfit to sail. Seamen, as a rule, are improvident. It would be a distinct disadvantage to a United States ship, as compared to a foreign ship, to have to make a compulsory payment. When the ship completes her voyage and the seamen are discharged, they will be paid in full and there is no occasion for their benefit to make this particular enactment.

2. The remedy provided by Section 7 for desertion or other offenses committed in port is inadequate.

It may be said that the Conference of London is silent upon this point, but that silence is expressive. When that Conference was made, the fact of the existing treaties and laws in regard to desertion was well known. The Conference did not propose any change. This new law now intervenes and makes a change in this essential particular.

3. The provisions of Section 11, in reference to the allotment of the wages the seaman earns "to his grandparents, parents, wife, sister or children," impose many restrictions upon such allotment. On the contrary, such allotment should be encouraged. The seaman, while he is in the performance of his duty, has his food and lodging provided as part of his stipulated compensation. He ought to be glad to have a portion at least of his pay sent to his wife and children. Why should an Act impose restrictions which make this difficult?

4. The provisions of Section 13, in reference to the crew and the percentage of the crew who shall be rated as able seamen, is different from that of the Conference. The avowed intention of this provision as stated in the memorial of the Seamen's Union, is to prevent orientals from being employed as seamen on American ships. Experience shows that many orientals are perfectly competent seamen. No such restrictions are imposed upon foreign ships in the oriental trade. An oriental has the same natural right to live and to earn his living by honest labor that a white man has.

It is the Chinese against whom these restrictions are especially aimed. Experience shows that the Chinese make good sailors. On the great rivers of China they acquire especial skill in handling boats, which are largely used for freight as well as passengers.

SECOND: The second class of differences consists in the numerous changes of arrangement. In the particulars covered by it Section 14 of the Seamen's Act, approved March 4, 1915, is, in most respects, substantially the same as the Convention of London for the Safety of Life at Sea, which was ratified by the Senate December 16, 1914. A careful comparison has convinced me of this.

But why, less than three months after the ratification of the Convention, pass an Act which in form differs widely? The particulars in which the positive requirements of the Seamen's Act change those of the Conference are based upon the theory that it is possible by American Statute to impose

upon foreign ships coming to our ports the economic ideas of Mr. Furuseth, the head of the Seamen's Union. This is fallacious. President Wilson justly said in his Pittsburgh address in January last: "It amazes me to hear men speak as if America stood alone in the world and could follow her own life as she pleases."

THIRD: Another class of differences consists of the omissions from the Seamen's Act of many important provisions of the London Conference.

1. Chapter III. Articles 5-9. The destruction of derelicts and ice patrol.

2. Article 10. New rule of navigation in the vicinity of ice.

3. Article 14. Revision of International Rules for preventing collisions with reference to lights and signals.

To use the language of the American Commissioners, when they submitted the Convention to the President: "The 14 principal maritime nations represented at the Conference decided that it would not be fair, without consulting the maritime nations not represented, to change the rules for preventing collisions to which they had already agreed and were now enforcing. The need for changes in the rules was earnestly advocated by the American delegation, and the convention (Art. 14) provides that the assent of these nations to the modification of the rules be secured as soon as possible. The principal changes proposed are the compulsory use of range lights on steamers, now optional under international rules, but obligatory on inland waters of the United States, the compulsory use of a fixed stern light in place of the display of a light or torch at the stern to an approaching vessel, a special day signal for motor vessels, which latter do not from a distance always indicate the fact that they are vessels under control; and finally, a special sound signal for use in a fog by a vessel in tow or by the last of several vessels in tow."

4. Chapter IV. Construction of vessels.

5. Chapter V. Radio-telegraphy. Both chapters are omitted.

6. Article 55 (1) is a very important section, not found in the Seamen's Act.

(1) "The carriage, either as cargo or ballast, of goods which by reason of their nature, quantity, or mode of stowage, are either singly or collectively likely to endanger the lives of the passengers or the safety of the vessel, is forbidden."

#### 7. Chapter VII. International Safety Certificates.

The Seamen's Union criticises the International Conference on this subject on the ground that the adoption of these articles will surrender the power to regulate foreign vessels coming to the United States. This objection is untenable, Article 61 expressly reserves the power of each country to verify "that the conditions of the vessel's seaworthiness correspond substantially with the particulars of that certificate; that is to say, so that the ship can proceed to sea without danger to the passengers and the crew."

This article was a compromise finally agreed to by all the nations which were parties to the Conference. France and Germany have heretofore insisted on the doctrine, that a vessel is a part of the territory of the nation to which it belongs and is not subject in the port of another nation to the jurisdiction of the latter. The adoption of this article was an important concession on their part.

8. Article XXII. of the Regulations adopted at the Conference provides: "That vessels shall have sufficient power for going astern to secure proper control of the vessel in all circumstances." This is not to be found in the Seamen's Act.

REPORT ON BILL  
RELATING TO MAINTENANCE OF ACTIONS FOR  
DEATH ON THE HIGH SEAS AND OTHER  
NAVIGABLE WATERS.

The new form of the proposed Federal Statute as adopted by the Association on the 23rd of November last was introduced in the Senate by Mr. Lodge (S. 4288), and in the House by Mr. Montague (H. R. 9919). Both bills were eventually referred to sub-committees of the committees on the judiciary, the sub-committee in the Senate including Senators O'Gorman, Fletcher and Brandegee, and in the House Mr. Igoe of Missouri, Mr. Williams of Illinois, Mr. Danforth of New York, and Mr. Graham of Pennsylvania.

Previously, Mr. Webb, Chairman of the House Judiciary Committee, had introduced the measure as it passed last year's House, with the Section 7 added by amendment on the floor of the House relating to limitation of liability (H. R. 60). That amendment was objected to by your committee as introducing a subject matter foreign to the bill, and which, if introduced at all, should be taken up separately only after a thorough consideration of the whole subject of limitation of liability. The new bill (H. R. 9919) contains no reference to limitation of liability.

A hearing was held by the sub-committee of the House on February 4th last. The notice given was so short that only one member of your committee was able to attend. Fortunately that member was Mr. Hughes, a member of the committee of both associations, who has long been interested in the bill and was as well fitted as any member of either committee to explain its provisions.

The minutes of the hearing have been printed and a copy is attached hereto. The House Committee found no fault with the new draft of the bill except for its failure to say anything about limitation of liability. Your committee has urged upon the committee of the House to pass the bill in its new and simple form (H. R. 9919), and has suggested that the ques-

tion of limitation of liability be not allowed to prejudice the passage of the measure but be taken up by a resolution referring the whole subject to some committee, such as the Judiciary Committee, for investigation and report. In reply, your committee have been asked if the Association cannot suggest a bill dealing with limitation of liability.

It seems evident that the Judiciary Committee does not intend to report the Loss of Life bill unless at the same time some amendment is made to the limited liability laws. They seem to fear that the Association will not take an interest in the amendment of the limited liability laws if the bill relating to loss of life is recommended without any section relating to limitation of liability.

In the Senate the principal question raised about the bill was as to the right of Congress to legislate for the high seas and foreign vessels, a feature which your committee believes the Senators have had satisfactorily explained to them, but owing to the pressure of other work no report has yet been made by the Senate Committee.

Your committee has used every endeavor to convince both House and Senate of the need of a law providing a right of action for death in admiralty cases, and to urge the passage of H. R. 9919. The limited liability laws have proved a stumbling block, as they did last year, and it is doubtful if favorable action can be secured this year, or indeed at any time in the near future if the make-up of Congress remains the same, unless the Bar Associations are prepared with some constructive program relating to the limited liability laws.

Respectfully submitted for the Committee,

FITZ-HENRY SMITH, JR.