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**MINUTES OF THE BOARD OF DIRECTORS MEETING
OF THE MARITIME LAW ASSOCIATION OF THE UNITED STATES**

Held At

**The Southampton Princess Hotel
Bermuda**

on

**Monday, October 25, 1993
and
Friday, October 29, 1993**

The meeting was called to order by President George W. Healy, III at 9:30 a.m. In addition to President Healy, the following officers were present:

Chester D. Hooper
James F. Moseley
Howard M. McCormack
Marshall P. Keating
Theodore S. Cunningham
Kenneth H. Volk

and the following Directors were present:

George D. Benjamin
Philip A. Berns
Richard C. Binzley
Lizabeth L. Burrell
George F. Chandler, III
Joseph D. Cheavens
John A. Edginton
J. Dwight LeBlanc, Jr.
David A. Nourse
Brendan P. O'Sullivan
Winston E. Rice
Thomas S. Rue

and, present by invitation:

Francis X. Byrn of New York, Bruce R. Hoefer, Jr. of New Orleans and Donald M. Kennedy of New York.

President Healy welcomed the members of the Board of Directors and guests.

I. SECRETARY'S REPORT

Secretary McCormack reported that the Minutes of the Executive Committee and initial Board of Directors meeting held in New York on August 6, 1993, were mailed to the membership together with the President's Newsletter, Document No. 704.

Upon motion duly made and seconded, the Minutes of the Board of Directors meeting of August 6, 1993 were approved and accepted.

II. TREASURER'S REPORT

Treasurer Keating reported the cash on hand and investments for the period through September 30, 1993 reflected the Association's sound financial position. The total cash and investments on hand was \$278,726.71.

The Treasurer also reported on his negotiations with representatives of various hotels in New York City regarding the Spring meeting in 1994. Based upon the negotiations and the diminution in costs, the Treasurer reported that the Spring dinner meeting will be held at the New York Hilton in lieu of the Marriott Marquis. Further negotiations were continuing with the hotel and it was anticipated that the Hilton Hotel would also be the situs of the Fall 1994 dinner.

Upon motion duly made and seconded, the Treasurer's report was approved and accepted.

III. MEMBERSHIP SECRETARY'S REPORT

Membership Secretary Cunningham reported that the Association's total membership was 3,509 as of October 18, 1993. He presented the names of 16 Proctor applicants qualified for Proctor membership. Upon motion duly made and seconded, the 16 Proctor applicants were unanimously elected. They are:

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Marshall A. Bell of St. Thomas, V.I.
Kurt E. Bosshardt of Ft. Lauderdale
Julia R. Brouhard of Cleveland
James T. Brown of Houston
Bruce D. Burglass, Jr. of New Orleans
Charles A. Cerise, Jr. of New Orleans
Andrew S. deKlerk of New Orleans
William M. Duncan of San Francisco
Michael K. Hope of Houston
Kimbly A. Kearney of Chicago
Kevin J. Keelan of New York
Richard J. McAlpin of Miami
Eugene J. McDonald of New York
Todd M. Powers of Cincinnati
John A. Treptow of Anchorage
John F. Young, Jr. of New Orleans

He also presented the names of 41 applicants qualified for Associate membership. Upon motion duly made and seconded, the 41 Associate applicants were unanimously elected. They are:

R. Patrick Baughman of Cleveland
Steven W. Block of New Orleans
Steven B. Boris of Framington
Michelle Buhler of Seattle
Thomas M. Canevari of New York
Elaine P. Chrysochoos of New York
Thomas O. Deen of Houston
Owen F. Duffy of New York
James E. Forde of New York
Richard L. Furman of Great Neck
Joe H. Harris of Cedar Rapids
Elizabeth Slatten Healy of New Orleans
Veronica Henriquez of Houston
Nicholas C. Hopkins of Seattle
W. Briggs Hopson, III of New Orleans
John H. Hughes of Lafayette
James N. Isbell of Houston
William J. Joyce of New Orleans
Charles S. Jordan of Seattle
Leonard H. Kesten of Boston
Robert E. Kiely of Boston

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W. Patrick Klotz, Jr. of New Orleans
Francis V. Liantonio, Jr. of New Orleans
Lauren Davis-Motola of Providence
Michael S. McDaniel of Los Angeles
Lawrence J. Mullen of Boston
Mathew G. Nasrallah of Jacksonville
Sheila C. O'Brien of Boston
Joseph L. Parisi of Ft. Lauderdale
Gail E. Peabody of Orr's Island, ME
William B. Piels of San Francisco
Michael F. Shanahan, III of Seattle
Steven C. Sharaf of Boston
Andrew H. Sharp of Hartford
Gabriel Ramon Sosa, III of Miami
Jimmie M. Spears of Houston
David H. Sump of Norfolk
Marjorie C. Turk of Long Beach
Jess G. Webster of Seattle
John E. Wells, IV of Washington, D.C.
Thomas A. Zimmer of San Francisco

Mr. Cunningham also presented the names of 9 applicants qualified for Non-Lawyer membership. Upon motion duly made and seconded, the 9 Non-Lawyer applicants were unanimously elected. They are:

Alice M. Cavaleri of New York
William E. Condon of New Orleans
Captain Henry E. Engelbrecht Bedminster
Captain Richard P. Fiske, USN, of Arlington
Andrew M. Fossler of Houston
Michael A. Jarrett of New York
Howard J. Kane of New York
Fred T. Pietropola of New York
Michael F. Sparfven of Providence

He also reported with regret the death of the following members since the August 6, 1993 meeting:

James F. Hart of New York
Alfred M. Farrell, Jr. of New Orleans
Charles V. Guilbault of New Orleans

Upon motion duly made and seconded, the Membership Secretary's report was approved and is appended to the original copy of these minutes.

IV. PRESIDENT HEALY REPORTED ON THE FOLLOWING TOPICS

A. CMI Meeting—Brussels

President Healy reported on his attendance together with Vice Presidents Hooper and Moseley at the 27th Assembly meeting of the CMI held in Brussels on September 27, 1993. President Healy indicated he was pleased to have nominated for Titulary Membership, Secretary Howard M. McCormack of New York and Treasurer Marshall P. Keating of New York. The nominations of the new Titulary members were unanimously approved.

B. Association of Average Adjusters' of the United States

President Healy reported on his attendance at the annual meeting of the Average Adjusters Association of the United States in New York. The retiring Chairman of the Adjusters was Robert B. Acomb, Jr. of New Orleans, a member of our Association. The new President of the Average Adjusters is George D. Benjamin of New York, a Non-Lawyer member of our Association.

C. Invitation of Stuart Hetherington

President Healy reported on the invitation of Stuart Hetherington, President of the Australian/New Zealand Maritime Law Association to attend their forthcoming meeting in Melbourne in early October 1994.

D. Request of Andrew J. Goldstein of New York

President Healy also reported on the recent request of Andrew J. Goldstein of New York who was looking for materials of a maritime nature to be inserted in the American Bar Association TIPS Admiralty and Maritime Committee Section Newsletter.

E. International Bar Association Meeting in New Orleans

President Healy also reported on his attendance at the International Bar Association meeting in New Orleans. He welcomed the maritime related attendees on behalf of the Maritime Law Association and introduced new Federal District Judge Joy Clement, a member of our Association, to the assembled group.

V. MEETING IN CHARLOTTESVILLE

J. Dwight LeBlanc, Jr. of New Orleans reported on the invitation of the members of the maritime bar of Norfolk to attend a Board of Directors meeting in

Charlottesville, Virginia in late March 1994. Mr. LeBlanc furnished the Board of Directors with the particulars concerning the meeting. On behalf of the Board, Mr. LeBlanc was authorized to extend the thanks and gratitude of the Board to Waverley Lee Berkley, III of Norfolk who was Chairman of the Organizing Committee.

VI. AMICUS BRIEFS

A. *Miller v. American Dredging*

Lizabeth L. Burrell of New York, Chairperson of the Committee on Uniformity of U.S. Maritime Law, reported on the pending oral argument of the *Miller* case in the Supreme Court on November 9, 1993. Thomas J. Wagner of New Orleans, counsel for the Petitioner, would argue the matter on behalf of the Petitioner. Ms. Burrell indicated that Mr. Wagner graciously invited her to share counsel table with him during the oral argument. The background of the *Miller* had been fully set forth in the Proceedings of the May 1993 meeting, Document No. 702 at page 10284.

B. *McDermott Inc. v. AmClyde, et al.*

Ms. Burrell also reported on the *amicus* brief filed on behalf of the Maritime Law Association in the United States Supreme Court in the captioned matter. The brief was prepared by Warren B. Daly of Baltimore, Vice Chairman of the Maritime Personnel Committee. Since the filing of the Association's *amicus* brief, the Solicitor General had also filed an *amicus* brief that seemed to track the position and arguments of the Association's brief. While the Association's brief deliberately did not deal with the issue of reallocation on the concept of credit for settlements reached by the plaintiff with other defendants in personal injury cases. Ms. Burrell had fully reported on the status of the *McDermott* case in the August 6, 1993 Board meeting. In addition, a new matter has been accepted for *certiorari* by the Supreme Court, namely, *Boca Grand v. Florida Power & Light Co.*, that involves the issue of contribution in personal injury cases. That issue was not considered in the *McDermott* case, which only considered the *pro tanto* credit. Ms. Burrell indicated that the Association was considering the possibility of a request to the Supreme Court to consider both the *McDermott* and *Boca Grand* cases on the same day, or perhaps even consolidate them for argument. As of the date of the meeting, no date had been set for argument in the *McDermott* case, although all briefs had been submitted to the Court. The Board unanimously approved the request of Ms. Burrell (including the filing of an *amicus* brief, if necessary) to take whatever action was necessary on behalf of the Association to have the Supreme Court consider the *McDermott* and *Boca Grand* cases together.

Ms. Burrell also reported on prior requests for an *amicus* brief that had been rejected by the officers in the case of *General Chemical v. De La Listra*. That case concerned an issue as to whether or not maritime law could be waived in a death case where state law was held to be applicable. It was the opinion of the President, First Vice President and Chairman of the Uniformity Committee that this case was not an appropriate one, nor did it fall within the Association's guidelines, for an *amicus* brief.

VII. KINGS POINT RESOLUTION

First Vice President Chester D. Hooper of New York reported on the recent activities concerning Kings Point and the commentary in the Federal Budget Proposal to close the Merchant Marine Academy in the future. Mr. Hooper and other members of the Board, in conjunction with members of the Association who are graduates of Kings Point, proposed a Resolution to the Board, which was unanimously adopted. The Proposal would be put before the general membership. A copy of the Resolution adopted by the Board is attached as Exhibit 1.

VIII. AMENDMENT TO SECTIONS 503 AND 504 OF THE BY-LAWS

Mr. Hooper also reported on the proposal to amend Sections 503 and 504 of the By-Laws. Notice of the proposed amendment had been submitted to the Board of Directors prior to the meeting.

Upon motion duly made and seconded, the Board unanimously adopted the following amendments to the By-Laws:

Section 503 was amended to read as follows:

No committee or subcommittee chair, or other officer, shall serve as such for more than four (4) consecutive years unless, in the President's sole opinion and discretion, there are exceptional circumstances which justify reappointment for an additional year.

Section 504 was deleted.

Present By-Law Section 504 which provided that no member of a Committee shall be appointed by the President for more than five (5) consecutive years was deleted. Accordingly, present Section 505 of the By-Laws was amended to 504.

IX. MARINE INSURANCE, GENERAL AVERAGE AND SALVAGE SUBCOMMITTEE ON SALVAGE, ISSUES OF JETTISON OF CARGO

The Board of Directors considered a proposed resolution of the Subcommittee on Salvage at the August 6, 1993. Based upon the discussions at that meeting and comments to James C. Shirley, Jr. of New York, Vice Chairman of the Subcommittee on Salvage, his Subcommittee revised the proposal, which it presented to the Board. At this meeting the Subcommittee on Salvage proposed the following resolution to the Board, which was unanimously adopted:

“BE IT RESOLVED, that the Association supports the proposition that jettison of oil or hazardous substances should remain a viable option for ship masters and salvors if jettison may decrease the risk of loss of life or serious injuries or prevent discharge of greater amounts of oil or hazardous substances or more serious environmental consequences than the jettison itself.”

The proposal would be submitted to the general membership at the October 29, 1993 general meeting.

X. MARITIME LEGISLATION COMMITTEE

Bruce R. Hoefler, Jr. of New Orleans, from the Maritime Legislation Committee, reported to the Board on Monday, October 25, 1993 concerning the Committee's draft legislation with respect to punitive damages. Francis X. Byrn of New York, Chairman of the Maritime Legislation Committee, also reported to the Board and discussed his Committee's proposal at the Board meeting on Friday, October 29, 1993. As a result of the spirited discussion between the Board and the Chairman of the Maritime Legislation Committee on the proposed draft legislation, which had been distributed to all members attending the Bermuda meeting, it was unanimously agreed by the Board and acquiesced in by the Chairman of the Committee, that the Maritime Legislation Committee intended to put forth its draft legislation on punitive damages to the general membership of the Association at the meeting in New York in May 1994.

XI. PLANNING AND ARRANGEMENTS 1993—BERMUDA

Donald M. Kennedy of New York, Chairman of the 1993 Planning and Arrangements Committee, reported to the Board on October 25, 1993 on the status of the Bermuda meeting then in progress. Mr. Kennedy indicated that the members who indicated their intent to register was approximately 770. This figure was at or slightly higher than the number of registrations for the Scottsdale meeting. Mr. Kennedy was very enthusiastic about the prospects of the meeting and gave warm thanks to the members of his Committee.

At the Board of Directors meeting on Friday, October 29, 1993, before the general meeting, President Healy and the Board of Directors unanimously gave a vote of thanks and gratitude to Mr. Kennedy and his outstanding Committee for their fine work and dedication that made the meeting an outstanding success.

XII. MEETING OF COMMITTEE CHAIRS

Second Vice President James F. Moseley of Jacksonville, reported on the initial meeting of all committee chairs to be held on Monday afternoon, October 25, 1993. A draft Handbook for Committee chairs had been the joint effort of President Healy, First Vice President Hooper, and Mr. Moseley. The draft had also been jointly reviewed and contributions had been made by all of the officers. Thereafter copies were distributed to members of the Board of Directors for comment. Mr. Moseley indicated that a substantial number of Committee Chairs were very appreciative of the work of the officers and members of the Board of Directors on the Handbook project. The Committee Chairs also expressed enthusiasm and interest in the initial meeting to be held in Bermuda of all Committee Chairs. Comments were to be received from all committee chairs by December 1, 1993 at which time Mr. Moseley would then prepare a final version of the Committee Chair Handbook.

XIII. CMI MEETING—SYDNEY, OCTOBER 1994

First Vice President Chester D. Hooper of New York reported on the forthcoming CMI meeting to be held in Sydney, Australia in October 1994. President Healy had appointed Mr. Hooper to supervise all activities on behalf of the Association for the CMI meeting. Mr. Hooper indicated that there was no restriction on the number of observers from the United States delegation. There had been no decision made as yet as to the identity of the potential delegates to the CMI on behalf of our Association.

The topics to be considered by the CMI were the York/Antwerp Rules 1976, the 1977 Convention on Mobile Offshore Craft and the Assessment of Damages Caused by Pollution. There would also be a topic concerning the issue of Marine Agents, which was of more interest to our colleagues in Europe. There was a proposal for a seminar on concepts of marine insurance, which would take place during some of the working sessions. There was also the possibility of some discussion of a new CMI committee organization concerning classification societies that had not yet been finalized. Mr. Hooper indicated he would be talking to the committee chairs concerning the general topics for the Sydney meeting and discussing with them the list of potential delegates to the meeting.

XIV. COGSA AMENDMENT PROJECT

George F. Chandler, III of New York, Chairman of the Carriage of Goods by Sea Committee, discussed with the Board the amendment to the Carriage of Goods by Sea Act project undertaken by his Committee. Meetings had been held with various representatives of the State Department and the House of Representatives Merchant Marine and Fisheries Committee concerning the proposal, which was intended to update COGSA. Mr. Chandler indicated that there was a substantial amount of interest in the State Department for the project. His Committee would be working with the State Department as well as with other committees in the Association concerning the proposal, including the Stevedoring and Terminal Operations Committee. It is anticipated that his Committee would have a full report put together for consideration by the members in May 1994.

XV. INTERNATIONAL LAW OF THE SEA COMMITTEE

Winston E. Rice of New Orleans, Chairman of the International Law of the Sea Committee, advised the Board of his Committee's proposed revisions to the current Piracy Statute, Title 18 U.S.C. His Committee prepared revisions to the Code, which were submitted to the Board for its consideration and recommendation for adoption by the membership. Mr. Rice also indicated that the documents concerning the proposed revisions were contained in the CLE Seminar materials for discussion at the CLE meeting on Thursday, October 28 1993. The Board of Directors unanimously approved the recommendations of the International Law of the Sea Committee and recommended their adoption by the Association membership.

XVI. YOUNG LAWYERS

Denise S. Blocker of San Francisco, Chairperson of the Young Lawyers Committee, reported to the Board on her activities with the Young Lawyers Committee and the survey they conducted concerning the reasons a substantial number of those eligible for Proctor membership had requested application forms, but had not applied. Ms. Blocker made various proposals to the Board to increase the number of applications for Proctor membership. The Board thanked Ms. Blocker and her Committee for their excellent work in having the largest class of Proctors admitted to the Association at the 1993 May meeting.

There being no further business, the Board of Directors meetings of October 25 and 29, 1993 were adjourned.

Respectfully submitted,
Howard M. McCormack
Secretary

EXHIBIT 1

“WHEREAS, the Maritime Law Association of the United States consists of approximate 3,500 attorneys and other maritime leaders that are dedicated to serving or promoting the maritime interests of the United States; and

WHEREAS, this Association has learned of a recommendation to reduce the appropriation needed to maintain the operation of the United States Merchant Marine Academy at Kings Point as set forth in the draft report dated August 27, 1993 titled TRET Reduce Spending for the U.S. Merchant Marine Academy; and

WHEREAS, a strong maritime and transportation industry is essential to the economy and security to our nation, which industry consists of but is not limited to, shipowners, ship operators, ship builders, naval architects, ship repair and maintenance facilities, marine salvors, ports, terminals, stevedores, ship chandlers, ship financing institutions, marine insurance, ship and cargo surveyors, admiralty attorneys, marine pilots, ship brokers and ship charterers; and

WHEREAS, in the Merchant Marine Act of 1936, our government recognized the need for a federal institution to provide specialized training for persons to lead this industry and established the United States Merchant Marine Academy at Kings Point, New York; and

WHEREAS, the need recognized in 1936 is even greater in today's expanding local economy; it is

HEREBY resolved by the membership of the Maritime Law Association of the United States at its general meeting on October 29, 1993, that the President of the Association should convey to our government the Association's concerns and its opposition to any reduction in the appropriation to the United States Merchant Marine Academy at Kings Point.