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

Held at the Association of the Bar of the City of New York  
on  
October 31, 2002  
9:30 a.m.

The meeting was called to order by President Raymond P. Hayden at 9:30 a.m. In addition to President Hayden, the following officers were also present:

Thomas S. Rue, First Vice President  
Lizabeth L. Burrell, Second Vice President  
Warren J. Marwedel, Secretary  
Patrick J. Bonner, Treasurer  
Philip A. Berns, Membership Secretary  
William R. Dorsey, III, Immediate Past President

The following Board members were present:

James K. Carroll	Armand J. Parè
Robert G. Clyne	Alan Van Praag
James Patrick Cooney	Mary Elisa Reeves
Robert S. Glenn, Jr.	James F. Whitehead, III
Glenn G. Goodier	Robert J. Zapf
Richard M. Leslie	JoAnne Zawitoski

At the invitation of President Hayden, Past President James F. Mosley, of Jacksonville Past President Chester D. Hooper of New York, and Past President Howard McCormack, of New York, was also present at the meeting.

**SECRETARY'S REPORT**

Upon motion duly made and seconded, the minutes of the August 3, 2002, meeting of the Board of Directors and the Secretary's Report were unanimously approved and accepted. The minutes of this meeting will be published in the PROCEEDINGS of the Fall 2002 General Meeting.

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#### **TREASURER'S REPORT**

Treasurer Patrick J. Bonner, of New York, presented the Treasurer's Report for the last quarter. He reported on the cash on hand, and indicated that dues collections were running about 89%. Last year at this time dues collections were about 87%. Collections are about \$19,000.00 less than last year due to a slight decrease in membership. It is anticipated that a balance of between \$25,000.00—\$30,000.00 will be in the bank at the end of the year.

At the request of Treasurer Bonner, a resolution was unanimously approved authorizing the Treasurer to open up a separate bank account for revenue and expenses involved in the Bermuda meeting in the fall of 2003. As part of that resolution, the Association will advance \$25,000.00 to the Bermuda committee to cover initial expenses.

Upon motion duly made and seconded, the Treasurer's Report was unanimously approved and accepted. A copy of the Treasurer's formal written report will be appended to the original of these minutes.

#### **MEMBERSHIP SECRETARY'S REPORT**

Membership Secretary Philip A. Berns, of San Francisco, presented 13 applicants for proctor membership, 17 applicants for associate lawyer membership and 3 applicants for non-lawyer membership. Upon motion duly made and seconded, the candidates were unanimously elected.

Membership Secretary Berns also reported, with regret, the death of the following members:

Richard D. Davis of League City, Texas  
Henry J. O'Brien of Brooklyn  
Edward Longcope of New York  
Honorable Bailey Aldridge of Cambridge  
Honorable Herbert F. Murray of Baltimore  
Irma Colon of the Bronx

Membership Secretary Berns reported that the Association had a total membership of 3,219. Of that number, 1,554 are proctor members.

The Membership Secretary also indicated that next years submission date for the Membership Directory will be April 11, 2003.

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Upon motion duly made and seconded, the Membership Secretary's Report was unanimously approved, and accepted, including the list of all successful candidates for membership. Mr. Berns written report will be appended to the original of these minutes.

## **INTERNATIONAL ACTIVITIES**

### **CMI Draft Instrument On The International Carriage Of Goods By Sea**

Past President Chester D. Hooper, of New York, reported to the Board on work on the CMI draft instrument on the International Carriage of Goods By Sea Convention, which has been forwarded to the United Nations Commission On International Trade Law (UNCITRAL). Past President Hooper reviewed the various issues being considered, such as: door to door coverage as opposed to port to port coverage, removal of the defense of error in navigation, shifting burdens of proof, service contract issues, principles of freedom of contract, and attempts to define the term "charter party." Past President Hooper reported that the head of the U.S. delegation, Mary Helen Carlson, of the State Department's Office of the Assistant Legal Advisor for Private International Law, will host a meeting this December in Washington, and has invited representatives from the truck and rail industry to participate and present their views on the CMI draft.

### **Comité Maritime International (CMI) Working Group On General Average**

Past President Howard M. McCormack, of New York, the MLA Delegate to the CMI Working Group On General Average, reported on changes proposed by the International Union Of Marine Underwriters (IUMI) to the York-Antwerp Rules. Past President McCormack has posted a very extensive paper on these issues on the MLA web-site for everyone's review.

## **IMO LEGAL COMMITTEE**

### **Wreck Convention**

Immediate Past President William R. Dorsey, III of Baltimore, reported on his attendance at the IMO Legal Committee Meeting in London where they discussed a proposed Wreck Removal Convention. Mr. Dorsey discussed various issues being considered such as who pays for wreck removals, direct actions against underwriters, how far a state may go to

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remove a wreck, flag state consent to wreck removal, act of terrorism defenses and cargo liability. Mr. Dorsey reported there is a lot of work to do on this proposed convention, and it will take some time before it is completed.

### **The Suppression Of Unlawful Acts Against The Safety Of Marine Navigation (SUA)**

Mr. Dorsey also reported on the United States Delegation's proposal for amendments to the 1998 Convention for the Suppression of Unlawful Acts Against The Safety Of Marine Navigation and its 1988 Protocol Relating to Fixed Platforms on the Continental Shelf. The United States, as part of its anti-terrorism efforts, has proposed broad changes, adding new offenses for acts against or by ships. The United States also seeks new boarding rights of vessels, even outside State territorial waters.

### **Place Of Refuge**

Immediate Past President Dorsey also reported on the IMO's work on guidelines for places of refuge for ships in need of assistance. Important issues include the liability for any damages resulting from either granting refuge or denying it.

### **Athens Convention**

Mr. Dorsey also updated the Board on the IMO sponsored Diplomatic Conference which adopted a Protocol to the Athens Convention Relating to the Carriage of Passengers and their Luggage by Sea. He reports that the strict liability limits, direct action and compulsory insurance limits are 250,000 SDR's. The overall liability limit for shipowners is 400,000 SDR. There is also an opt out provision allowing States to have higher limits, or no limits at all. The P&I Clubs have indicated there may be coverage problems given the limits set.

Mr. Dorsey also noted that the Protocol distinguished hotel functions of a ship from the pure shipping operations by allocating differing burdens of proof depending upon the nature of the incident which causes a passenger injury or death.

### **International Maritime Organizations (IMO)**

Treasurer Patrick J. Bonner, of New York, reported on his attendance as advisor to the United States delegation, at the IMO/ILO Joint Working

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Group dealing with the issues of seaman's rights relating to abandonment of seafarers. He reported that last year 118 ships were abandoned, stranding 5,229 crew members. Seafarers are urging a mandatory instrument, such as a convention, to ensure seafarers are repatriated and paid compensation if there is an abandonment. Seafarers are also pressing for a procedure to deal with the cases where full contractual compensation is not paid quickly in the event of any injury or death. The Joint Working group decided to canvas member governments on their laws and regulation on abandonment and compensation, and to see whether member governments had adopted the guidelines put forth by the IMO/ILO.

## **COMMITTEE AND STUDY GROUP REPORTS**

### **Amicus Argument in U.S. Supreme Court**

Immediate Past President William R. Dorsey, III, of Baltimore, reported on the oral argument on October 15, 2002, in the U.S. Supreme Court. He indicated the arguments by all parties were excellent, but could not predict the outcome. Admiralty law did not seem to be the central focus, but rather the Doctrine of Preemption.

Joshua Force, of New Orleans, also attended the argument on behalf of the MLA.

### **American Bar Association Relations Report**

Past President James F. Moseley, of Jacksonville, presented a report on activities of the American Bar Association and its General Meeting in August of this year. Of particular interest is the International Law Section's study of the Foreign Sovereign Immunities Act, and the proposals adopted on Multi-Jurisdictional Practice and Ethical Considerations In Settlements. Mr. Moseley indicated that these new rules will be considered by the various state bar associations, and members should closely review any amendments to their local bar rules. A copy of Past President Moseley's report will be appended to the original of these minutes.

### **New Ad Hoc Committee**

President Raymond P. Hayden has appointed Second Vice President Lizabeth L. Burrell, of New York, to chair a special ad hoc committee to work on enhancing MLA membership and member participation in MLA activities. The Committee has a broad geographic membership base, and

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will look at recommendations the Association may consider in light of the changing maritime industry and related practice of law. It is hoped that the Committee will have its first report at the next board meeting, in New Orleans, next March.

**Young Lawyers Committee—Resolution**

Upon motion duly made and seconded, the Board passed a resolution proposed by the Young Lawyers Committee to amend Section 5.02 of the By-laws relating to the limit of two (2) general committee assignments per member. The resolution reads:

Membership in the Young Lawyers Committee shall not prevent a member from serving on two (2) additional standing committees.

**PRESIDENTIAL ACTIVITIES**

President Raymond P. Hayden reported on his attendance at the Houston Marine Insurance Seminar, The Average Adjusters Presidents Dinner, The Average Adjusters Dinner, The New York Marine Insurance And Claims Association Dinner and The Environmental Crimes Committee Meeting in Washington with the Coast Guard and Department of Justice and Environmental Protection Agency.

**Calendar**

- A. The Spring Meeting will be May 2, 2003.
- B. There will be a CMI colloquium in Bordeaux, France in June 2003.
- C. There will be a CMI conference in Vancouver, Canada in June 2004.
- D. The MLA 2003 Fall Meeting will be at the Southampton Princess in Bermuda, Wednesday, October 29, 2003 through Saturday, November 1, 2003.

**Future Officer and Board Meetings**

- A. The Officers will meet in Washington, D.C. in January 2003.

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B. There will be an Officers meeting on March 17, 2003, and a Board meeting on March 18, 2003, in New Orleans, just prior to the Tulane Maritime Conference.

C. There will be an Officers meeting at Hill, Rivkins & Hayden in New York on April 29, 2003, at 9:30 p.m.

D. There will be a Board of Directors meeting at the Association of the Bar of the City of New York on May 1, 2003, at 9:30 a.m.

E. There will be an Officers and Board of Directors meeting in Seattle, Washington on August 1 and 2, 2003.

There being no further business to come before the Board the meeting was adjourned at 11:30 a.m.

Respectfully  
submitted,

/s/ Warren J.  
Marwedel  
Secretary