

[13800]

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

Held at the Hotel Alexis, Seattle, Washington

On

August 2, 2003

9:00 a.m.

The meeting was called to order by President Raymond P. Hayden at 9:00 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 Bonner, Treasurer
Philip A. Berns, Membership Secretary
William R. Dorsey, III, Immediate Past President

The following Board members were present:

James Patrick Cooney	Armand J. Paré*
Robert G. Clyne	M. Hamilton Whitman, Jr.
Robert S. Glenn, Jr.	Robert J. Zapf
Glenn G. Goodier	JoAnne Zawitoski
Robert J. Gruendel	
Edward F. Lebreton, III	
Richard M. Leslie	*attended by phone

At the invitation of President Raymond P. Hayden, Past Board Member, James F. Whitehead, III, of Seattle, Washington was also present at the meeting.

SECRETARY'S REPORT

Upon motion duly made and seconded, the minutes of the May 2, 2003, 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 Fall 2003 issue of the PROCEEDINGS.

TREASURER'S REPORT

Treasurer Patrick J. Bonner, of New York, presented the Treasurer's Report for the quarter ending April 30, 2003. He reported that as of July 31, 2003, dues collections were \$320,266.00, or 85.6% of the \$374,255.00 billed. This is a slight increase in collections over last year. The number of invoices sent out this year was 2,765/126. A slight decrease over last year's number of 2,837/114.

Mr. Bonner reported on upcoming expenses including \$35,000.00 for the directory and approximately \$38,000.00 for the PROCEEDINGS and MLA Report. It is anticipated that a balance of approximately \$13,000.00 will be in the bank at the end of the year.

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 seventeen (17) applicants for associate lawyer membership and indicated the change of membership status of John G. Ingram of Healy & Baillie LLP, from proctor to judicial status. He also reported that Edward Dangler of Kaye, Rose, Maltzman LLP has been changed from non-lawyer to lawyer status.

Mr. Berns reported that the Association had a total membership of 3,180. Of that number, 1,530 are proctor members. Mr. Berns thanked William R. Dorsey, III, Immediate Past President, for his contribution to the directory by drafting a listing of the various organizations the MLA participates in. It is anticipated that the directory will be mailed no later than the end of September.

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

INTERNATIONAL ACTIVITIES

COGSA/UNCITRAL Working Group

President Hayden reported on the current status of COGSA/UNCITRAL and the MLA's working group activities. Mary Helen Carlson, of the U.S. Department of State, has been working with various governmental and transportation groups, including the MLA working group. Apparently a compromise on defenses, including limitations, and forum selection, is in the works. Ms. Carlson asked for cargo input on these issues, and the AIMU has apparently agreed that the parties to a service contract may choose a forum and extend that choice to third parties to the service contract in certain situations. The choice may be extended to third parties if:

1. The parties to the service contract agree to extend it to third parties;
2. The choice is either: a) the place of origin; b) the place of destination; or c) the principal place of the carrier's business;
3. Notice of the choice is provided in the bill of lading, probably on the face of the bill of lading.

The definition of service contracts is narrower than that provided in OSRA.

The problem with this proposed compromise is that consignees often don't see a bill of lading until after the cargo arrives, and cargo insurers don't have access to restrictive language in service contracts. There will be another working group meeting in Vienna in October of 2003. The proposal may be found in the position of the United States in Transport Law Working Group III of the UNCITRAL website, <http://www.uncitral.org/en-index.htm>.

Comité Maritime International (CMI) Colloquium

President Raymond P. Hayden reported on the CMI Colloquium held in Bordeaux, France from June 11 to June 13, 2003. In attendance were President Hayden, Past President Howard M. McCormack, First Vice President Thomas S. Rue, Second Vice President Lizabeth L. Burrell, and George Chandler of the Committee on Electronic Communications and Commerce. The subject matters included questions on electronic trade, transport documents, general average, issues of transport law and other areas of international law including place of refuge and marine insurance. No action was taken at the colloquium. Information concerning the CMI

Colloquium may be obtained from the CMI website at www.comitemaritime.org.

There will be a formal CMI plenary session in Vancouver, Canada from May 30 through June 5, 2004. Information may be obtained from the CMI website at www.cmi2004.org.

COMMITTEE AND STUDY GROUP REPORTS

Committee Chairs

President Hayden reviewed committee chairs and board of director liaison assignments. He encouraged the directors to become more proactive in attending committee meetings and encouraging committee chairs to prepare advance agendas for committee meetings, have speakers, prepare papers, and help coordinate with other directors and committee chairs on subjects that have broad MLA interest. It is recognized that committee work is the real strength of the Association, and the most productive committees plan, execute and report their activities. Committee chairs should coordinate with the CLE Committee if they desire CLE credit for committee meetings. Generally, this will require the preparation of written materials.

FALL MEETING 2003 – BERMUDA

President Hayden reported on the plans for the Bermuda meeting to be held from October 28 through November 2, 2003 at the Fairmont Southampton Princess Hotel. While the contract for this meeting was signed some years ago, the Bermuda committee has attempted to implement many of the suggestions coming from members through the special *ad hoc* committee on MLA membership and participation enhancement. The meeting has been shortened so that members may arrive Wednesday night, attend the President's Welcoming Reception, and have two days of CLE/seminars and committee meetings. The annual fall meeting will be on Saturday morning, and the dinner dance Saturday night. Black tie has been eliminated for the dinner dance. Athletic activities will be held prior to the meeting.

President Hayden reviewed the list of impressive speakers who are leaders in their respective marine and insurance industries. All members are encouraged to attend this meeting and comment on the revised format.

PRESIDENTIAL ACTIVITIES

President Hayden reported on his activities including attendance at the Average Adjusters meeting and dinner on May 8, 2003, his speech at the SEALI meeting in Atlanta, Georgia on June 27, 2003, and his upcoming speech at the International Union of Marine Insurers in Seville, Spain, September 16, 2003.

ON-LINE ACCESS TO MLA PAPERS

Secretary Warren J. Marwedel, of Chicago, reported that the Law Library Micro Forum Consortium, located in Hawaii, is contemplating putting all MLA documents on line. This would be without charge to the MLA, and accessible by public and private law libraries that pay a fee. Questions were raised as to copyright waivers, and further information will be obtained before the Board makes a decision on participation in this project.

ALTERNATIVE MEETING SITES

First Vice President Thomas S. Rue, of Mobile, reported on the activities of the *ad hoc* committee seeking an alternative location for the Fall 2004 Meeting. Mr. Rue reported on his meeting with representatives of the New Orleans MLA Bar and Tulane Maritime Institute on the possibility of holding a meeting in New Orleans sometime in the fall of 2004, rather than in New York. Mr. Rue reported that the New Orleans Bar, and the Tulane Maritime Institute were supportive of a Fall 2004 Meeting. However, considering the time involved, this meeting probably could not be held in conjunction with the Tulane seminar presently scheduled for March 2005. The 2004 fall meeting would provide CLE, committee meetings, and at least one evening social function. After a general discussion on the feasibility of such meeting, it was agreed that the MLA should hold its Annual 2004 Meeting in New Orleans. President Hayden will appoint a committee to organize that meeting.

AD HOC COMMITTEE ON ENHANCING MLA MEMBERSHIP AND ACTIVITIES

Second Vice President Lizabeth L. Burrell, of New York, chair of the special *ad hoc* committee working on enhancing MLA membership and member participation in the MLA activities, gave a follow-up report on the

status of the committee's work to date. She indicated that the committee, while still gathering and analyzing information, has concluded that the principle value of the MLA, to its members, is committee work, networking, and CLE. Most of the work done by the MLA is through its various committees. Attendance at these meetings allows members to learn what is happening in areas of their practice and other areas of maritime practice that may have an ultimate impact on the individual lawyer. It is an opportunity to work with lawyers from other parts of the country, work with non-lawyer leaders in industry and obtain the necessary CLE required by many states. The brown bag luncheons, held with members, has disclosed that many members are not familiar with the work done by the Association and its committees. One of the challenges ahead is making sure members are more aware of the many benefits and are able to participate in the committees and activities of the Association.

Committee officers are in the real leadership roles for the work of the Association. This work takes planning and organization, and the utilization of developing communication technology to enhance participation and communicate with members on what's happening. Successful committees have agendas, speakers, papers, and oral and written reports to the membership explaining significance of their activities. Often, committees get so involved in the details of their work, that they forget to communicate useful information to the membership via presentations, reports, and other materials that may be put on the website.

A discussion was held concerning setting guidelines for committee operations, liaison duties for board of directors and increasing the number of non-lawyer maritime industry leaders in the Association and committee work.

The committee is also looking at the structure of the New York meetings, including duration, location of meetings and the dinner dance itself. While some members have suggested a reception rather than a sit down dinner, many members do not realize the significant financial contribution New York firms make to the Association by guarantying several tables at the dinner. This financial support would be lessened if only a stand-up reception were held. The issue of black tie is also being reviewed.

Ms. Burrell indicated that the interim report of her committee will be published on the website, and that she anticipated the final report to be presented to the Board in Bermuda this fall.

**National Conference of Commissioners for Uniform State Laws
(NCCUSL)**

Director Richard M. Leslie, of Miami, reported on an ABA review of a proposed study instituted by the National Conference of Commissioners for Uniform State Laws, to draft a standard law for marine insurance. This is a project originally looked at by the ALI. Mr. Leslie indicated he would forward written materials to the Board members for further consideration at the fall meeting.

Calendar

- A. IMO Legal Committee meeting – October 13 – 17, 2003
- B. Fall Meeting of the Association – Fairmont Southampton Princess Hotel, Bermuda – October 28, 2003 to November 2, 2004
- C. May 30 to June 5, 2004 – CMI Conference in Vancouver, Canada.

Future Officer and Board Meetings

- A. The Officers will meet in Bermuda on Tuesday, October 28, 2003, from 5:00 – 7:00 p.m.
- B. The Board of Directors will meet in Bermuda on Wednesday, October 29, 2003, from 9:00 a.m. to 12:00 p.m.
- C. Spring Meeting in New York, May 7, 2004.
- D. Fall Meeting 2004 – Tentatively New Orleans.

Seattle Board of Directors Meeting

President Hayden extended his thanks to James F. Whitehead, III and Bruce King, of Seattle, for making arrangements for the Board of Directors Meeting and the very excellent seminar concerning the fishing industry in the Pacific/Northwest.

There being no further business to come before the Board, the meeting was adjourned at 12:00 p.m.

Respectfully submitted,

Warren J. Marwedel
Secretary