

[14121]

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

Held at the Hyatt Regency Cleveland at the Arcade
420 Superior Avenue
Cleveland, Ohio
on
August 14, 2004
9:30 a.m.

The August 14, 2004 meeting was called to order by President Thomas S. Rue at 09:30 a.m. In addition to President Rue, the following officers also were present:

Lizabeth L. Burrell, First Vice President
James W. Bartlett, III, Secretary
Patrick J. Bonner, Treasurer
Philip A. Berns, Membership Secretary

The following directors also were present:

Robert G. Clyne	Richard M. Leslie
Christopher O. Davis	John P. Schaffer
Glenn G. Goodier	Harold K. Watson
Sandra L. Knapp	M. Hamilton Whitman, Jr.
Edward L. LeBreton, III	John M. Woods

Immediate Past President Raymond P. Hayden attended the Officers Meeting on August 13, 2004.

SECRETARY'S REPORT

Upon motion duly made and seconded, the minutes of the May 6, 2004 meeting were unanimously approved and accepted. The minutes of the May 6, 2004 meeting of the Board of Directors will be published in the Spring 2004 issue of the PROCEEDINGS.

TREASURER'S REPORT

Treasurer Patrick J. Bonner of New York presented the Treasurer's Report. The MLA as of April 30, 2004 had cash and investments of approx-

[14122]

imately \$263,000 after backing out the expenses of the May 7, 2004 Dinner at the Marriott Marquis Hotel in New York.

Dues collections as of July 31, 2004 are strong, with approximately 85.7% of billed dues collected.

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 14 applications for Associate membership and one application for non-lawyer membership. Upon motions duly made and seconded, the applications of the following 14 Associate lawyer members and one non-lawyer member were approved:

Associate members:

Frank J. Anders of San Francisco
William M. Cooney of New York
James M. Hurley of Miami
John D. Kimmerlein of Seattle
Deyuan Lin of Long Beach
Kevin Michael McGlone of New Orleans
Lori Jean Quinn of New York
Leonard R. Schwigen of Los Angeles
Robert M. Sharp of Jacksonville
Sharon K. Shutler of Silver Spring, Maryland
Andrew I. Stemmer of New York
Peter Daniel Waugh of Seabrook, Texas
Pamela Whipple of New York
Brendan E. Zahner of New York

Non-lawyer member:

Thomas L. Willis of Falling Waters, West Virginia

Mr. Berns regretfully reported the deaths of the following MLA members:

Jennings B. Jones, Jr. of Cameron, Louisiana
Michael W. Lodwick of Costa Mesa, California
J. Edmund DeCastro of Buffalo, New York
Robert Clements of Lake Charles, Louisiana
The Hon. Whitman Knapp of Southern District of New York
Ronald Payne of Fort Lauderdale, Florida
James H. Ackerman of Long Beach, California

Mr. Berns also regretfully reported the death of William Hansell Rue, father of President Thomas S. Rue.

After admission of the 14 new Associate members and the new non-lawyer member, the total membership of the MLA is 3137.

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

DISCUSSION ITEMS AND REPORTS

Title 46 Codification

President Rue reported that concerns have been raised that the codification of COGSA as part of the Title 46 codification would send the wrong message to the delegations from other countries with respect to the on-going discussions relating to the UNCITRAL draft on the carriage of goods. Dennis L. Bryant, Chair of the *Ad Hoc* Committee on the Recodification of Title 46, has recommended (subject to approval by Mary Helen Carlson of the State Department) that COGSA not be included in the Title 46 codification but instead be linked word-for-word as a statutory note following the codified Harter Act. President Rue will communicate this recommendation to Ms. Carlson.

Fall 2004 New Orleans Meeting

Mr. Goodier reported that the MLA Fall Meeting will begin on Thursday, November 11, 2004, with Committee meetings at the offices of various law firms in New Orleans. There will be a cocktail party hosted by the various New Orleans law firms at the Board of Trade on Thursday evening beginning at 5:30 p.m. Committee meetings will continue on Friday, November 12, 2004, and an MLA reception will take place at 7:00 p.m. at the Plimsoll Club. The MLA General Meeting will be held at 9:30 a.m. on Saturday, November 13, 2004.

Fall 2005 Meeting – Scottsdale, Arizona

President Rue reported that the Fall 2005 Meeting, to be chaired by Marion McDaniel of Houston, will be the subject of a reconnaissance mission on October 6-8, 2004.

Insurance Market Conference – London, September 13, 2004

The MLA will not participate as a sponsor of this conference to be held in London on September 13, 2004.

Committee Restructuring

President Rue reported that the Committee restructuring has been completed. The list of the new Committees and their Chairs will be appended to these minutes. President Rue requested Board of Directors approval to waive the By-Law 502 requirement that Vice-Chairs be Proctor members with respect to Pamela L. Milgrim, who has been proposed as Vice-Chair of the Committee on Cruise Lines and Passenger Ships, and Richard T. Buckingham, who has been proposed as Vice-Chair of the Committee on Salvage. On motion duly made and seconded, the waiver was unanimously approved.

Reducing Crime and Terrorism at America's Seaports Act (S.2653)

President Rue reported that Senator Biden is sponsoring this wide-ranging seaport security bill. Dennis Bryant will be asked to monitor the progress of this legislation.

Hague Convention

Discussions are ongoing concerning a draft Hague Convention on the enforceability of choice of law and forum selection clauses in commercial contracts. There is an issue as to whether this convention will apply to maritime contracts. Alan Van Praag has been asked to monitor this draft convention.

NTSB Forum on Mandatory Use of Pfd's on Recreational Boats

The National Transportation Safety Board is holding a public forum on August 25, 2004, in Washington, D.C., the subject of which will be the mandatory use of personal flotation devices on recreational boats. Frank

DiGiulio, Vice-Chair of the Recreational Boat Committee, will attend this forum and report on the discussions.

By-Law Amendments

First Vice President Burrell, who also was the chair of the Special *Ad Hoc* Committee on Enhancing MLA Membership and Participation, proposed amendments to the By-Laws recommended by the Special Committee relating to Standing Committee membership. The Special Committee recommended self-appointment to Standing Committees and the maintenance of a limitation of the number of Standing Committees to which there could be voting membership. After board discussion, the following amendments to the By-Laws were moved and seconded and unanimously approved, with one abstention.

305. DUTIES OF OFFICERS

305.1 The President shall be the chief executive officer of the Association and shall generally supervise its affairs. The President shall preside at all meetings of the Association and the meetings of the Board of Directors, shall have power to call special meetings, and shall have authority to authorize proxy voting.

305.2 The President shall have authority to establish such Committees as the President may deem necessary to facilitate the business of the Association. The President shall have authority to appoint the Chairs, Vice-Chairs, and other officers of all Committees, whose terms of office shall expire at the next annual meeting of the Association following their appointment. The President shall have authority to appoint the members of Special Committees, Study Groups, and board liaisons. The Committee Chairs shall report to the President, who shall be an *ex officio* member of all Committees.

305.3 The Secretary shall keep a record of the proceedings of all meetings of the Association and of such other matters as directed by the President or the Board of Directors.

The Secretary shall notify the Officers of their election or appointment, shall issue notices of all meetings, and, in case of special meetings, shall add a brief notice of the purpose of the meeting.

The Secretary shall be the keeper of the seal of the Association and shall perform such other duties as may from time to time be delegated to the Secretary by the President or by the Board of Directors.

502. ELIGIBILITY TO SERVE ON COMMITTEES

All members of the Association in good standing may become members of the Standing Committees of the Association and vote in the proceedings of such Committees. However, no member shall serve simultaneously on more than three (3) Standing Committees in any capacity other than as representative of the Board of Directors, unless, in the President's sole opinion and discretion, there are exceptional circumstances. Membership on the Young Lawyers Committee shall not prevent a member from serving on three (3) additional Standing Committees.

The right to vote on the business of any Committee business does not accrue until ninety (90) days have elapsed from the date that the member joins that Committee. Provided that the three-Committee and time limitations stated in this By-Law are observed, Association members are free to join or withdraw from Committees at will.

Only a Proctor member or a Non-Lawyer member shall be eligible to serve on the Board of Directors or as a Committee Chair or Vice-Chair unless, at the request of the President, the Board of Directors shall waive this requirement.

Presidential Activities

President Rue reported on his attendance at the following meetings:

- A. Average Adjusters Annual Meeting and Dinner, London, May 12-14, 2004
- B. CMI Conference, Vancouver, Canada, May 30-June 5, 2004
- C. Canadian Maritime Law Association Meeting, Vancouver, May 30, 2004
- D. Canadian Average Adjusters Annual Meeting, Toronto, Canada, June 9-10, 2004

[14127]

President Rue will be attending the Houston Marine Insurance Seminar on September 20, 2004.

Future Officer and Board Meetings

- A. MLA Fall Meeting, New Orleans – Officers, November 11, 2004;
Board of Directors, November 12, 2004
- B. Officers' Meeting, Washington, D.C. – January 2005
- C. Tulane Admiralty Law Institute – Officers, March 14, 2005;
Board of Directors, March 15, 2005

There being no further business to come before the Board of Directors, the meeting was adjourned at 1:00 p.m.

Respectfully submitted,
James W. Bartlett, III, Secretary