

[14276]

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

Held in the Hughes Room
Association of the Bar of the City of New York
44 West 44th Street
New York, New York 10036

on
May 5, 2005
9:30 a.m.

The May 5, 2005 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
Warren J. Marwedel, Second Vice President
James W. Bartlett, III, Secretary
Patrick J. Bonner, Treasurer
Philip A. Berns, Membership Secretary
Raymond P. Hayden, Immediate Past President

The following directors also were present:

Robert G. Clyne
Christopher O. Davis
Robert S. Glenn, Jr.
Glenn G. Goodier
Robert J. Gruendel
Sandra L. Knapp

Edward L. Lebreton, III
Richard M. Leslie
Harold K. Watson
M. Hamilton Whitman, Jr.
John M. Woods

At the invitation of President Rue, John A. Edginton of Point Richmond, California, and Marion E. McDaniel, Jr. of Houston, Texas, also attended the meeting. Also attending the meeting at President Rue's request were Douglas R. Petko and Robin Becker of PC Solutions.

SECRETARY'S REPORT

Upon motion duly made and seconded, the minutes of the March 15, 2005 meeting were unanimously approved and accepted. The minutes of

the March 15, 2005 meeting of the Board of Directors will be published in the spring 2005 issue of the PROCEEDINGS.

TREASURER'S REPORT

Treasurer Patrick J. Bonner of New York presented the Treasurer's Report for the three months ended January 27, 2005. He reported that as of January 27, 2005, the MLA had cash and investments of approximately \$235,000, which is an improvement over last year. He attributed the improved reserve position to the success of the Fall 2004 Meeting in New Orleans, decreased travel expenses, reduced printing costs, and the increased use of emails for communications with members.

Dues collections remain strong. In terms of future expenses, seed money for the Scottsdale meeting in November will be necessary, and the MLA website upgrade is expected to cost approximately \$20,000. It is hoped that the improved website will be up and running by mid-June.

Upon motion duly made and seconded, the Treasurer's Report was unanimously approved and accepted. A copy of the Treasurer's formal written report for the three months ended January 27, 2005 will be appended to the original of these minutes.

MEMBERSHIP SECRETARY'S REPORT

Membership Secretary Philip A. Berns of San Francisco reported that nine associate members had been nominated for elevation to proctor membership. Upon motion duly made and seconded, the nominations of the following nine Proctor members were approved:

Dennis L. Bryant of Washington, D.C.
Jana N. Byron of New York, New York
Robert E. Collins of Boston, Massachusetts
John V. Coulter of New York, New York
Michael D. Formby of Honolulu, Hawaii
Donald J. Freeman of West Palm Beach, Florida
J. Patrick Geraghty of Hackensack, New Jersey
Pamela L. Milgrim of New York, New York
Charlotte Valentin of New York, New York

Mr. Berns also recommended the admission of 16 lawyers nominated for Associate membership. Upon a motion duly made and seconded, the applications of the following 16 Associate members were approved:

Adrian E. Malanos Belton of Charleston, South Carolina
James S. Carmichael of Miami, Florida
Ryan Conor Donlon of Pleasonton, California
Douglas Warren Fink of Mobile, Alabama
Curtis W. Fitzgerald, II of Sugarland, Texas
David D. Jensen of New York, New York
Matthew S. Kish of Coral Gables, Florida
Kevin J. Lennon of New York, New York
Bathann R. Lloyd of Pittsburgh, Pennsylvania
Charles J. McCarthy of Cambridge, Massachusetts
Carolyn Elizabeth Meers of New York, New York
Charles P. Neely of Conshohocken, Pennsylvania
Matthew D. Pethybridge of Portsmouth, Virginia
Samuel S. Rufer of Minneapolis, Minnesota
Norman M. Stockman of Mobile, Alabama
James S. Witcher, III of Birmingham, Alabama

Mr. Berns recommended approval of the nomination of the Honorable Paul V. Niemeyer of the United States Court of Appeals for the Fourth Circuit as a Judicial member. Upon motion duly made and seconded, the nomination of the Honorable Paul V. Niemeyer as a Judicial member was approved.

Mr. Berns recommended the approval of the nomination of Professor Jonathan M. Guttoff of the Roger Williams University School of Law as an Academic member. Upon motion duly made and seconded, the nomination of Professor Jonathan M. Guttoff as an Academic member was approved.

Mr. Berns recommended that the position of General Counsel of the National Oceanic and Atmospheric Administration (NOAA) be made an *Ex-Officio* member of the MLA, *i.e.*, whoever holds that post will hold this *Ex-Officio* membership position. The present General Counsel of NOAA is James R. Walpole. Upon motion duly made and seconded, the position of General Counsel of NOAA was approved as an *Ex-Officio* member of the MLA.

Mr. Berns recommended the approval of the nomination of four individuals for Non-Lawyer memberships. Upon motion duly made and seconded, the nominations of the following four Non-Lawyer members were approved:

Brooke Y. Grehan of New Orleans, Louisiana
Christopher Miley of New York, New York
Charles T. Rekerdres of Dallas, Texas
John C. Timmel of Tampa, Florida

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

Ralph E. McKay of Forked River, New Jersey
Felix Saogado, Jr. of New York, New York
E. V. "Gus" Greenwood of Houston, Texas
The Hon. J. Calvitt Clarke, Jr. of Norfolk, Virginia
Wayne F. Emard of San Francisco, California

Mr. Berns also regretfully reported the death of Suzanne Hayden, the wife of former President Raymond P. Hayden.

After the admission of the 16 new Associate members, the Hon. Paul V. Niemeyer as a Judicial member, Jonathan M. Guttoff as an Academic member, four new Non-Lawyer members, and the General Counsel of NOAA (James R. Walpole) as an *Ex-Officio* member, the total membership of the MLA is 3,128.

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 Dennis Bryant, Chair of the MLA *Ad Hoc* Committee on the Title 46 Codification, had reported that final suggestions as to changes to the proposed legislation had been submitted. It is hopeful that the Title 46 codification will become law in the 109th Congress.

Comité Maritime International

President Rue and First Vice-President Burrell attended the meeting of the CMI in Paris on April 16, 2005. President Rue reported that Christopher O. Davis of New Orleans has been elected as a Councilor on the Executive Council of the CMI. Frank L. Wiswall, Jr., of Castine, Maine retired as Vice-President of the Executive Council. President Rue will present Mr. Wiswall with a certificate of appreciation at the General Meeting on May 6, 2005. Stuart Heatherington of Australia was elected Vice-President of the Executive Council, replacing Mr. Wiswall.

2005 Fall Meeting

Marion E. McDaniel, Jr. of Houston, Chair of the Arrangements Committee for the 2005 Fall Meeting, reported on the plans for the meeting. The meeting will be held at the Fairmont Princess Resort in Scottsdale, Arizona on November 2–6, 2005. There will be CLE presentations in the mornings of Thursday and Friday, November 3–4, with Committee meetings in the afternoons. The General Meeting will be held on Saturday morning, November 5. There will also be a full program of social, recreational, and sports events.

2006 Fall Meeting

John A. Edginton of Point Richmond, California, reported on plans for a proposed 2006 MLA Fall Meeting in San Francisco, California. A planning Committee has been formed, with Forrest Booth of San Francisco as its Chair. The proposed meeting would be held from Wednesday, October 4, 2006 to Saturday, October 7, 2006 and would be held in conjunction with the Pacific Admiralty Seminar. The Committee is in the process of talking to hotels, restaurants, and venues for events and recreational activities. This meeting would also coincide with Fleet Week in San Francisco. Upon motion duly made and seconded, the board approved the Committee going forward with the planning for a San Francisco meeting.

Hague Convention

Alan Van Praag of New York will attend a U.S. State Department Advisory Committee meeting in Washington on May 9, 2005 relating to the Hague Convention regarding the enforceability of choice-of-law and forum selection clauses in commercial contracts. Mr. Van Praag was authorized by the Board of Directors to take the position that contracts for carriage of goods and passengers at sea should be exempted from the draft convention.

Proposed ABA Resolution On U.S. Oceans Policy

Richard M. Leslie of Miami reported on the status of a draft report and proposed draft resolution on U.S. oceans policy that certain elements in the American Bar Association were proposing for adoption by the ABA. It appears that the draft report and draft resolution had their origin in the ABA Standing Committee on Environmental Law. The draft report and draft resolution came to the attention of the Board by way of a memorandum from David J. Farrell, Jr., Chair of the Fisheries Committee, dated April 22, 2005.

They also in April came to the attention of James K. Carroll of New Orleans, who currently is serving as Chair of the Tort Trial and Insurance Practice Section of the ABA.

Prior to the Board meeting, a resolution had been drafted by which the MLA would request the ABA and its sections to defer consideration of the draft report and draft resolution on U.S. oceans policy until the MLA has had an opportunity to analyze the draft report and draft resolution and to comment on the issues raised therein. Upon motion duly made and seconded, this resolution was adopted by the Board.

Subcommittees of the Board of Directors

Following up on a recommendation made by the Special *Ad Hoc* Committee on Enhancing MLA Membership and Participation, the Board approved the formation of Subcommittees of the Board, which will be the Subcommittee on Membership, the Subcommittee on Finances, and the Subcommittee on Committees. The Board will consider the formation of other Subcommittees.

Retiring Directors

President Rue thanked the following retiring directors for their service on the board and presented them with certificates acknowledging that service:

Robert G. Clyne of New York, New York
Robert S. Glenn, Jr. of Savannah, Georgia
Glenn G. Goodier of New Orleans, Louisiana
Richard M. Leslie of Miami, Florida

In addition, the following Committee Chairs will be stepping down from those positions and will be presented certificates of appreciation:

David J. Farrell, Jr. of South Chatham, Massachusetts—Fisheries Committee

Alfred J. Kuffler of Philadelphia, Pennsylvania – Special Committee on Environmental Crimes

Lawrence Jay Kahn of New York—Young Lawyers Committee

John M. Ryan of Norfolk, Virginia—Stevedoring, Marine Terminal, and Vessel Services Committee

Arbitration and ADR Committee

Robert G. Clyne of New York reported that the Arbitration and ADR Committee had unanimously approved a model mediation agreement and suggested that it might be posted on the MLA website. The Committee will submit the model mediation agreement to President Rue for his review.

Presidential Activities

President Rue reported that he had attended or will be attending the following meetings or events:

- A. John R. Brown Moot Court Competition—April 9, 2005.
- B. Comité Maritime International Meeting, Paris—April 16, 2005.
- C. International Maritime Organization Meeting, London—April 25-29, 2005.
- D. Average Adjusters Association Meeting and Dinner, London—May 12, 2005.
- E. SEALI Seminar—June 24, 2005.

Future Officer and Board Meetings

- A. Officers Meeting and Board of Directors Meeting at Chateau Montebello, Québec, Canada—August 18–20, 2005.
- B. MLA Fall Meeting, Scottsdale, Arizona—November 2–6, 2005.

There being no further business to come before the Board of Directors, the meeting was adjourned at 11:55 a.m.

Respectfully Submitted,
James W. Bartlett, III, Secretary