

**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
42 West 44th Street
New York, New York
on
May 1, 2008
9:30 A.M.

The May 1, 2008 meeting was called to order by President Lizabeth L. Burrell at 9:30 A.M. In addition to President Burrell, the following officers also were present:

Warren J. Marwedel, First Vice President
Patrick J. Bonner, Second Vice President
James W. Bartlett, III, Secretary
Robert G. Clyne, Treasurer
Thomas S. Rue, Immediate Past President

The following directors also were present:

Joe E. Basenberg
Forrest Booth
Donald J. Kennedy
John D. Kimball

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Dennis L. Bryant
David J. Farrell, Jr.
Grady S. Hurley
Allan R. Kelley

Janet Wessler Marshall
Stephen V. Rible
C. Kent Roberts
John M. Ryan

Membership Secretary Philip A. Berns presented his report to the Board by telephone.

SECRETARY'S REPORT

Upon motion duly made and seconded, the minutes of the March 8, 2008 meeting of the Board of Directors were unanimously approved and accepted. The minutes of the March 8, 2008 meeting of the Board of Directors will be included in the Spring 2008 PROCEEDINGS.

TREASURER'S REPORT

Treasurer Robert G. Clyne presented the Treasurer's report for the three months ended January 31, 2008. He reported that cash and investments total \$338,059.77 and that approximately 75% of dues for 2008 have been collected.

The venue for the Spring 2009 Dinner is being considered, with Pier 60 and the Marriott Marquis the possibilities.

Upon motion duly made and seconded, the Treasurer's report was unanimously approved and accepted. A copy of the Treasurer's formal report for the three months ended January 31, 2008 will be appended to the original of these minutes.

MEMBERSHIP SECRETARY'S REPORT

Membership Secretary Philip A. Berns presented his report by speaker phone.

Mr. Berns reported that the Proctor Committee recommended the elevation of eight Associate members to Proctor member status:

Wm. Ryan Acomb of New Orleans, Louisiana
Julius H. Hines of Charleston, South Carolina
Neil Klein of Costa Mesa, California
Jessica L. McClellan of Savannah, Georgia
Dabney Welsh Pettus of Corpus Christi, Texas

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Sterling J. Stires of Rancho Santa Fe, California
Michelle Otero Valdes of Miami, Florida
Thomas M. Wynne of Richfield, Ohio

Upon motion made by Mr. Berns, which was duly seconded, the elevation of these members to Proctor status was approved unanimously.

Mr. Berns reported that 25 applications were received for Associate membership. Upon motion duly made and seconded, the applications of the following 25 Associate members were approved unanimously:

Dean W. Baker of New Haven, Connecticut
Murray A. Bloom of Washington, D.C.
Asher Brooks Chancey of Philadelphia, Pennsylvania
Steven A. Clark of New Haven, Connecticut
John Townsend Cooper of Sullivans Island, South Carolina
Gerald L. Creighton, Jr. of Rockland, New Jersey
Peter Caro Dee of New York, New York
Boriana Farrar of New York, New York
Christine A. Fazio of New York, New York
Christopher H. Frick of New York, New York
David C. Grigsby of New Haven, Connecticut
Paul Durand Hale of New Orleans, Louisiana
Timothy W. Hassinger of Mandeville, California
Jeremy Alan Herschaft of New Orleans, Louisiana
Marisa G. Huber of San Francisco, California
Alan C. Kelhofer of New York, New York
Pierre S. Krouse of Houston, Texas
Amy Bartlett Lovseth of Jersey City, New Jersey
Theodore H. Lucas of St. Louis, Missouri
Larry G. Main of Washington, D.C.
Andrew Nicholas Mescolotto of Fort Lauderdale, Florida
Bradley Mozée of San Ramon, California
Michele L. Trowbridge of New Orleans, Louisiana
Chad E. Willits of Cincinnati, Ohio
Chelsea Yuan of San Francisco, California

One application for reinstatement as a Proctor member was received from David R. Hornig. Upon motion duly made and seconded, the application for reinstatement of David R. Hornig as a Proctor member was approved unanimously.

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Membership Secretary Berns reported that five applicants have been nominated by the Non-Lawyer Committee for membership in the Association. Upon motion duly made and seconded, the applications of the following five persons were approved for Non-Lawyer membership:

Kevin Ennis of Armonk, New York
John L. Judice of New York, New York
Charles A. Mannino of Eatontown, New Jersey
Lorna V. Rosquites of Boston, Massachusetts
Michael Wilson of Houston, Texas.

One application for Academic membership was received for Professor R. Randall Bridwell. Upon motion duly made and seconded, the application of Professor R. Randall Bridwell for Academic membership was approved unanimously.

Eleven applications were received for Law Student membership. Upon motion duly made and seconded, the applications of the following Law Student members were approved unanimously:

David R. Boyajian of Tulane University School of Law
Guillermo Antonio Cancio of Tulane University School of Law
Candace L. Cooper of Tulane University School of Law
Justin Crawford of Rutgers University School of Law, Newark
Patricia M. Dickerson of Hamline University School of Law
Guy Manchuk of Tulane University School of Law
Jason Wayne Power of Berry University School of Law
Thomas Richardson of Rutgers University School of Law, Camden
Angelique P. So of Tulane University School of Law
Lazlo Szabo of Rutgers University School of Law, Newark
Kevin M. Whiteley of Washington University School of Law

Mr. Berns reported with regret the deaths of the following MLA members:

John R. Martzell of New Orleans, Louisiana
The Hon. Paul H. Rooney of St. Petersburg, Florida
Charles L. Trowbridge of New York, New York
Robert C. Blumberg of Washington, D.C.
George G. D'Amato of New York, New York
Richard B. Kydd of Boston, Massachusetts

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After the admission of 25 Associate members, the admission of five Non-Lawyer members, the reinstatement of one Proctor member, and the admission of one Academic member, the total membership of the MLA is 3,060. There are also 16 Law Student members.

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.

BOARD SUBCOMMITTEE REPORTS

Committees

Second Vice President Patrick J. Bonner reported that a joint meeting of the Committees on Regulation of Vessel Operations and Marine Ecology and Maritime Criminal Law was held in Washington, D.C. on Tuesday, April 29, 2008. These same two committees also held a joint meeting in New York on Wednesday, April 30.

The Subcommittee is addressing a continuing issue with agendas and call-in numbers and is looking into the possibility of establishing a common call-in number.

Finance

Treasurer Clyne reported that the Finance Subcommittee is addressing the possibility of a dues increase for 2009. The Subcommittee is also looking into investment alternatives for the investment account.

Membership

Membership Secretary Berns recommended that this Subcommittee be tasked with reviewing the requirements needed to qualify for Proctor membership and Non-Lawyer membership. The Subcommittee was directed to so proceed.

Website

First Vice-President Warren J. Marwedel reported that the enhancements to the MLA website are temporarily on hold due to a change of personnel at Intercounsel.

DISCUSSION ITEMS AND REPORTS

Fall 2008 Arrangements Committee

Robert J. Zapf and William H. Collier, Jr., Co-Chairs of the Committee, reported that the Fall 2008 Meeting will be held in Long Beach, California, at the Long Beach Hyatt, on November 5–8, 2008. Committee meetings will run from Thursday, November 6, to Friday, November 7, with the General Meeting being held on Saturday morning, November 8. Preceding the Committee meetings, there will be a CLE tour of the Port of Long Beach/Los Angeles by charter boat, including an interim bus tour of the Maersk Terminal. On Thursday evening, November 6, there will be a hosted reception at The Aquarium of the Pacific. The traditional MLA reception and dinner will be held at the Long Beach Hyatt on Friday evening. A block of rooms have been reserved at the Hyatt from Tuesday evening, November 4, through Saturday evening, November 8, inclusive.

Board Liaison Reports

Several Board liaisons discussed issues relating to getting Committee agendas out six weeks in advance of the Committee meetings. It was suggested that a working agenda should be circulated and posted on the website six weeks in advance of the meetings with a final agenda sent out three to four weeks prior to the meetings. It was suggested that this task could be delegated to the Committee secretary. All of the agendas should be accessible on the MLA website Events Calendar.

City/Regional Luncheons

Joe E. Basenberg reported that there will be a social event in early June in Mobile, Alabama. He also complimented the MLA Administrator, Robin Becker, for her assistance in facilitating communications concerning this event.

David J. Farrell, Jr. reported that a luncheon meeting was held at the Roger Williams Law School in Rhode Island on April 4, 2008. Approximately 50 people attended, and the topic discussed was short sea shipping.

Coast Guard Forum

The United States Coast Guard and the MLA have created a forum to facilitate communications between the two organizations. President Burrell has created a special committee that will liaise with the Standing Committees and the membership in order to monitor and convey concerns of MLA

members and the many industry interests they represent and to provide feedback on Coast Guard initiatives and other agency actions. The members of this special committee are Warren J. Marwedel, Christopher O. Davis, Bruce A. King, M. Hamilton Whitman, Jr., and Lizabeth L. Burrell.

Fisheries

David J. Farrell, Jr. reported that a proposed provision of the Coast Guard Authorization Act for Fiscal Year 2008, S.1892, specifically Section 505, would facilitate the financing of fishing enterprises by clarifying that maritime liens will not attach to limited access system permits, partially implementing resolutions adopted by the MLA at its General Meeting in November 2004. President Burrell has written letters to Senator Ted Stevens, Senator Daniel K. Inouye, and Senator Maria Cantwell supporting the passage of Section 505.

Marine Financing

C. Kent Roberts reported that Bruce A. King, Chair of the Committee on Marine Financing, met with Congressional staff on April 29 to propose statutes that would permit filing with the Coast Guard of a bareboat charter of a vessel and would permit the documentation of a vessel and the filing of a preferred mortgage at the beginning of vessel construction. These proposals were approved by the Board of Directors by e-mail vote prior to this meeting.

Practice and Procedure

Secretary Bartlett reported that the Committee on Practice and Procedure will be proposing a resolution at the General Meeting on May 2, 2008 for the approval and adoption of revised MLA Model Local Admiralty Rules.

Meeting Site Selection Committee

First Vice President Marwedel reported that various alternatives are being considered for the locations of the Fall 2009 and 2010 Meetings.

***Ad Hoc* Committee on Environmental Crimes**

Immediate Past President Thomas S. Rue reported that there has been little progress with respect to the MLA initiative to bring industry and government representatives together for some kind of workshop in September. He is expecting shortly to receive a letter from Richard Udell of the Department of Justice concerning this subject.

Certification

Forrest Booth reported that there is no news with respect to the efforts by some parties to certify admiralty as a specialty in California.

Short Sea Shipping

David J. Farrell, Jr. reported that the *Ad Hoc* Committee on Short Sea Shipping will meet for the first time this afternoon and will feature Rand Pixa of MARAD as a guest speaker. In addition, CLE papers will be presented by C. Kent Roberts, H. Clayton Cook, Jr., and David J. Farrell, Jr.

Amicus Requests and Participation

The MLA filed *amicus* briefs in support of petitions for writ of certiorari in two cases before the Supreme Court of the United States, in *National Casualty Co. v. Lockheed Martin Corp.* and *Magnolia Industrial Fabricators v. Devon Louisiana Corp.* Certiorari was denied in the National Casualty case, and the petition in *Magnolia* is still pending. In addition, argument in the *Con-sub* case, in which the MLA filed an *amicus* brief, will take place before the United States Court of Appeals for the Second Circuit on May 15, 2008.

Subpoena and Rule 45 Requests

A Subpoena and Rule 45 Requests directed to the MLA were quashed by way of a Motion for Protective Order filed in the United States District Court for the Eastern District of Louisiana. An opinion was issued by the U.S. Magistrate Judge in granting the Motion that may prove valuable if similar requests are received in the future.

U.N. Convention on Independent Guarantees and Stand By Letters of Credit

The Board received a written report from Robert J. Zapf, who had been requested by President Burrell to serve as an observer in telephone meetings and conferences of the Committee to Implement the United Nations Convention on Independent Guarantees and Stand By Letters of Credit. This convention is of interest to maritime practitioners, in that it would apply to independent guarantees or stand by letters of credit negotiated and adopted in connection with the release of ships or other property seized in accordance with the Supplemental Rules. Mr. Zapf reported that the Committee has con-

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cluded that “the adoption of the Convention by the United States will cause little change in American law.”

UNCITRAL Draft Convention

The UNCITRAL Draft Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea will go for signature in September. It will be before the United States Senate in the early Fall, and it is hoped that it will be quickly adopted. The position of the MLA could be very important in this process.

Presidential Activities

President Burrell will speak for the legal profession at the Average Adjusters Dinner in London on May 8.

The Canadian Maritime Law Association has invited the MLA President to attend its meeting in Vancouver this summer.

Future Officer and Board Meetings

- A. MLA Board Meeting, Kings Point, New York—August 8–9, 2008
- B. MLA Fall Meeting, Long Beach Hyatt, Long Beach, California—November 5–8, 2008.

There being no further business to come before the Board of Directors, the meeting was adjourned at 11:17 A.M.

Respectfully submitted,
James W. Bartlett, III,
Secretary