

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

Held in the Elliot M. See Room of Wiley Hall,
United States Merchant Marine Academy,
Kings Point, New York
on
August 9, 2008
9:30 A.M.

The August 9, 2008 meeting was called to order by President Warren J. Marwedel at 8:30 A.M. In addition to President Marwedel, the following officers also were present:

Patrick J. Bonner, First Vice President
Robert B. Parrish, Second Vice President
Harold K. Watson, Secretary
Robert G. Clyne, Treasurer
David J. Farrell, Jr., Membership Secretary
Lizabeth L. Burrell, Immediate Past President

The following directors also were present:

Joe E. Basenberg	Donald J. Kennedy
Forrest Booth	Janet Wessler Marshall
Grady S. Hurley	C. Kent Roberts
Barbara L. Holland	Robert B. Hopkins
Frank P. DeGiulio	Vincent J. Foley
Kimberley A. Kearney	

The following individuals were also present at the invitation of the President:

Thomas S. Rue	Lawrence J. Bowles
Vincent M. DeOrchis	Charles E. Schmidt
John P. Schaffer	Richard M. Leslie

SECRETARY'S REPORT

Upon motion duly made and seconded, the minutes of the May 1, 2008 meeting of the Board of Directors were unanimously approved and accepted.

The minutes of the May 1, 2008 meeting of the Board of Directors will be included in the Fall 2008 PROCEEDINGS.

TREASURER'S REPORT

Treasurer Robert G. Clyne presented the Treasurer's report for the three months ended April 30, 2008. He reported that cash and investments total \$589,105.97, but stated that the cash and investments as of April 30 are always somewhat unrepresentative of the Association's financial position because bills in connection with the May dinner have not been received as of that date. The only major upcoming expense is the Association's CMI dues, which are effectively increased because of the weakness of the dollar versus the Euro. He indicated that approximately 76% of dues for 2008 have been collected. 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 April 30, 2008 will be appended to the original of these minutes,

With regard to the venue for the Spring 2009 Dinner, Mr. Clyne reported that while a number of venues were contacted, Pier 60 and the Marriott Marquis were the only ones that submitted competitive bids, with Pier 60 being about \$10 per head cheaper. While certain board members expressed a preference for the Marriott Marquis because of the relative difficulties in getting transportation leaving Pier 60, the number of people attending the dinner since the event has been held at Pier 60 has increased by a fairly substantial number over the numbers that attended the dinner when it was held at the Marriott Marquis, and when polled, a clear majority of the board favored returning to Pier 60. President Marwedel suggested that better information about the departure times for the busses provided to transport attendees to mid-town should help ease the potential problems with post-dinner transportation. The issue of firms sponsoring a post-dinner cocktail party was discussed.

MEMBERSHIP SECRETARY'S REPORT

Membership Secretary David J. Farrell, Jr. presented the Membership Secretary's report.

Mr. Farrell reported that 22 applications were received for Associate membership. Upon motion duly made and seconded, the applications of the following 22 Associate members were approved unanimously:

John J. Bromley, Boston
Chris D. Collings, Houston
Stephanie A. Espinoza, Chicago

Nicholas Fell, London
Ivan A. Guzman, Christiansted, St. Croix, USVI
E. Francois Hestres-Rodriguez, San Juan
Anthony C. Iacocca, New Brunswick, NJ
Travis William Jeric, Cleveland
Brian Keane, Boston
Christopher E. Klawinski, Houston
Kathleen Mackie LaVoy, Oak Brook, Il
Thomas O. Lind, New Orleans
Jennifer Ann Mehaffey, Washington, DC
W. Spencer Murphy, New Orleans
Timothy C. Nies, Boca Raton, Fl
Susan Regeimbal, Costa Mesa, Ca
Jean Cooper Rose, New York
Matthew D. Shaffer, Houston
Brook M. Thibault, Norfolk
Melinda Weber, Cape May Court House, NJ
Patrick Whitford, Jacksonville, Fl
Nancy E. Zimmer, S. Chatham, Ma

One application for reinstatement as a Proctor member was received from Victor Edwin Stewart, and four applications for reinstatement as Associate members were received from Michael Richard Jackson, Samuel R. Mandelbaum, Graeme Alexander Reid, Douglas A. Winegardner. Upon motion duly made and seconded, the applications for reinstatement of these former members to their previous status was approved unanimously.

Membership Secretary Farrell reported that four applications have been received for Law Student membership. Upon motion duly made and seconded, the applications of the following four persons were approved for Law Student membership:

Brian Carideo of the University of San Francisco School of Law
Craig A. Graham of Roger Williams University School of Law
A. Ross Pearsall of Widener University School of Law/Roger Williams
University School of Law
Geoffrey L. Wendt of Charleston School of Law

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

Hon. Charles Brieant of White Plains, NY, Judicial Member, 1989
Kent Brooks of Pottsboro, Texas, Associate Member, 1993

Rae M. Crowe of Mobile, Life Member, 1959
John G. DeRussy of New Orleans, Proctor Member, 1976
T.C.W. Ellis of New Orleans, Life Member, 1960
James W. Parker of Hamilton, Bermuda, Proctor Member, 1974

After the admission of 22 Associate members and four Law Student members, and the reinstatement of one Proctor member and four Associate members, the total membership of the MLA is 3,100. This number includes 20 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.

Mr. Farrell also reported that the Association Directory will come out this fall.

ASSOCIATION MANAGEMENT

President's Advisory Committee

President Marwedel reported that former president Thomas S. Rue has been asked to assemble the Association's policies.

BOARD SUBCOMMITTEE REPORTS

Committees

Mr. Parrish, chairman of the Board Committee on Subcommittees, reported that he had convened a meeting of the subcommittee, and had also spoken with the Association's committee chairs and emphasized to them the need to post the agendas for their committee meetings well in advance of the committee meetings.

Finance

Mr. Clyne reported that the subcommittee has met and discussed the investment account, a formal budget for the Association, means of cutting costs, and a possible dues increase.

Membership

Mr. Farrell reported that the subcommittee had met by phone, and discussed the possibility of updating the directory with an interactive PDF doc-

ument to show changes. However, whether this would accomplish anything more than access to the website was questioned. The matter was referred to the Association Website & Technology Committee.

The subcommittee has also been asked to look at the Association's residency requirements.

Mr. Roberts suggested that non-members who have acted as counsel in cases reported in the American Maritime Cases be contacted and invited to join the Association.

Discussions were held regarding law student access to draft and internal documents on the website.

Website

Mr. Bonner reported that all numbered Association documents are being put on PDF. The cost of this will be less than \$1,500. On motion duly made and seconded, the expenditure of this amount to fund this operation was approved.

DISCUSSION ITEMS AND REPORTS

Standing Committee Liaison Reports

Mr. Kennedy reported on a recent decision from the Ninth Circuit dealing with ballast water discharges.

Mr. Hurley reported that Bradley A. Jackson of Houston is the new chair of the committee, and that William Ryan Acomb of New Orleans is the new vice chair. The committee will be co-sponsoring a presentation of issues arising out of the 2005 Gulf of Mexico hurricanes at the Long Beach meeting. In addition, Mr. Hurley reported on two recent Fifth Circuit cases dealing with vessel status and seaman status.

America's Marine Highway

Mr. Roberts reported that manner in which harbor maintenance taxes are imposed poses an impediment to the development of short sea shipping. Under current legislation, this tax is imposed at each port. Accordingly, a cargo can be taxed more than once if the vessel visits multiple ports. Legislation has been proposed to eliminate this multiple taxation, and a resolution supporting this legislation will be presented to the Association at the November meeting.

Special Committee Reports

Fall 2008 Arrangements Committee

Mr. Forrest Booth reported that arrangements for the Fall 2008 Meeting to be held in Long Beach, California, at the Long Beach Hyatt, on November 5–8, 2008 are on track. The meeting is being organized by Robert P. Zapf and William H. Collier, Jr., with assistance from Mr. Booth and others who organized the meeting in San Francisco in 2006. The meeting will commence with a tour of the Port of Los Angeles on Wednesday, November 5, which is being provided at no cost to the Association or its members by the Port. A reception on Thursday, November 6 at The Aquarium of the Pacific is being hosted by various local firms, with possible additional funding from West Law. The only event involving a charge to the members will be the Friday night dinner.

Fall 2009 Meeting Site Selection Committee

Mr. Schmidt reported the recommendation of the Site Selection Committee that the Fall 2009 meeting be held at the Hilton Head Marriott Beach & Golf Resort from November 3–7. This is a Four Diamond resort, and Mr. Schmidt has negotiated a room rate of \$200/night, and is attempting to negotiate additional savings for the Association with regard to guarantees. On motion duly made and seconded, the Board authorized Mr. Schmidt to negotiate a contract with the facility. In addition, upon motion duly made and seconded, the Board approved adding Joanne Zawitoski and Lawrence J. Kahn as signatories to the arrangements committee account for the meeting.

Environmental Crimes

Mr. Rue reported on his discussions with the new head of the Environmental Crimes unit of the Department of Justice.

Certification

Mr. Booth reported on the proposal of the California Board of Legal Specialization to certify specialists in admiralty and maritime law. The proposal is principally supported by the maritime personal injury plaintiffs' bar. In addition, the proposal contains CLE requirements that will be extremely difficult to meet. These problems have been pointed out to the California Board of Legal Specialization, but it is impossible to know what it will recommend to the Board of Governors of the California Bar Association.

American Bar Association

President Marwedel reported that the ABA is currently meeting in New York City, but that there is nothing on the agenda of consequence for the Maritime Law Association. Mr. Leslie, the Association's representative to the ABA, discussed the importance of having a representative to the ABA that is familiar with the ABA and its leaders. He pointed out that Henry F. ("Hank") White, Jr., a member of the Association, is the Executive Director of the ABA, and is helpful in keeping the Association informed about issues of importance to the Association.

Regional Meetings

A lunch is planned in New Orleans for August 14. Hon. Martin L.C. Feldman, a judicial member of the Association, will discuss the issue of punitive damages. A social gathering will be held in Mobile in September, and in Oregon on September 9. It was emphasized that these meetings generate much good will for the Association, and are good means of attracting new members.

Coast Guard Forum

Ms. Burrell reported that she has been in contact with Adm. Baumgartner to coordinate a forum for discussions between the Association and the Coast Guard. She reported that the Coast Guard would like to have a forum where Association members with complaints about Coast Guard actions can voice their views.

Subpoena

Mr. Watson reported on a recent discussion with the Department of Justice concerning a subpoena that the Department was proposing serving on the Association. Mr. Watson explained to the Department representative that the Association was not involved with the subject of the investigation in question, and has had no further contact from the Department about the matter.

Coast Guard Administrative Law Judges

Mr. Marwedel passed out materials relating to Coast Guard Administrative Law Judges.

American Maritime Law Foundation

Mr. Marwedel reported that the activities of this organization have ceased. The Foundation has approximately \$5,000, and the Association has

had discussions with Frank Wiswall on behalf of the Foundation about using this money to having the Association documents put in shape and donated to a library. Tulane Law School has indicated that it is not interested in housing these documents, but the Merchant Marine Academy may be willing to do this.

West Law

Mr. Marwedel reported that West Law has approached the Association and asked to enter into a contract whereby West Law could use Association seminar papers. While the contract would require West Law to pay royalties under certain circumstances, Mr. Hopkins pointed out American Maritime Cases has had a similar contract with West Law, and that historically royalties are seldom earned.

Amicus briefs

A discussion was held regarding the standards for filing amicus briefs.

Seaman's Church Institute Silver Bell Dinner

Mr. Marwedel announced that Association member Paul Edelman had received an award at the Seaman's Church Institute Silver Bell Dinner.

INTERNATIONAL ACTIVITIES

UNCITRAL Draft Convention

Mr. DeOrchis presented copies of the final version of the Convention, and reported that he and former president Hooper attended the final session in June. No significant changes were made at that meeting. Some countries had suggested reopening the discussions, but this was rejected. The Convention will be offered to the General Assembly of the United Nations this fall, and, if accepted by the General Assembly, a signing ceremony will be held in Rotterdam in September 2009. Accordingly, the Convention will be known as the "Rotterdam Rules."

The Convention must be ratified by 20 states within 10 years to come into force. It is accepted that the United States position will be critical. The State Department believes that there will not be opposition in Congress, and that the change of administrations next year will not be important. If adopted by the United States, it is anticipated that the Convention will be self-executing and that domestic legislation will not be necessary.

Mr. DeOrchis also discussed various substantive aspects of the Convention.

After the conclusion of Mr. DeOrchis' report, President Marwedel expressed his appreciation to Mr. DeOrchis and to Mr. Hooper (who could not be present) for all their work on this project, and all present joined in this expression of thanks.

Maritime Labor Convention Roundtable

Mr. Bonner reported that he had attended a meeting of the Maritime Labor Convention Roundtable on behalf of the Association. This organization was set up by the Seaman's Church Institute for various organizations to discuss the Convention that was agreed in 2006 in Geneva. He reported that while shipowners generally support the Convention, the offshore industry is concerned because the Convention requires a three watch rotation as opposed to the two watch rotation customary in that industry.

IMO/ILO Expert Working Group on Abandonment and Compensation for Death and Injury Claims

Mr. Bonner reported that he attended the Eighth Session of the Expert Working Group in Geneva on July 21 through July 25. With respect to abandonment of seafarers, Mr. Bonner reported that seafarers state that they are more concerned with compensation than abandonment, and that the issue of compensation for death and injury claims presents difficulties for the United States since it conflicts with established United States law under the Jones Act. The United States and United Kingdom are working with representatives of the seafarers and owners to develop an appropriate wording for an instrument.

Association of Average Adjusters Dinner

President Marwedel attended the annual meeting and dinner of the Association of Average Adjusters in London on behalf of the Association. He reported that Immediate Past President Burrell delivered the response on behalf of the legal profession, a distinct honor in that she was only the second American in history to do so. Ms. Burrell further distinguished herself by delivering the response to the tune of "When I Was a Lad" by Sir Arthur Sullivan to the reported delight of all present.

Meeting with Canadian MLA

President Marwedel reported that the Canadian MLA has proposed a joint meeting of the boards of both organizations in Quebec City on August 21-22, 2009.

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CMI Meeting in Athens

President Marwedel reported on the nominations for officers of the CMI. The meeting will be held in Athens October 12-18.

There being no further business to come before the Board of Directors, the meeting was adjourned.

Respectfully submitted,
Harold K. Watson,
Secretary
