

THE MARITIME LAW ASSOCIATION
OF THE UNITED STATES

HOWARD M. McCORMACK
PRESIDENT
29 BROADWAY
NEW YORK, N.Y. 10006-3293
212-943-3980 FAX: 212-425-0131

WILLIAM R. DORSEY, III
FIRST VICE PRESIDENT
250 WEST PRATT STREET
BALTIMORE, MD. 21201
410-539-5040 FAX: 410-539-5223

RAYMOND P. HAYDEN
SECOND VICE PRESIDENT
90 WEST STREET
NEW YORK, N.Y. 10006-1039
212-669-0600 FAX: 212-669-0699

LIZABETH L. BURRELL
SECRETARY
24 STATE STREET
NEW YORK, N.Y. 10004-1484
212-422-7585 FAX: 212-425-4107

PATRICK J. BONNER
TREASURER
80 PINE STREET
NEW YORK, N.Y. 10005-1759
212-425-1900 FAX: 212-425-1901

WINSTON E. RICE
MEMBERSHIP SECRETARY
201 ST. CHARLES AVENUE
NEW ORLEANS, LA. 70170
504-595-5116 FAX: 504-523-2705

August 15, 1998

Document # 736

SUMMER 1998 PRESIDENT'S NEWSLETTER

Dear Member:

Your Association continues involvement in many significant projects. Many of these projects will impact each of you and the maritime industry not only in the immediate future but in the long range. This Newsletter is an effort to keep each of you advised of areas of involvement in substantive and procedural law, international organizations and matters that significantly impact our membership.

This Newsletter actually supplements the full and meticulously detailed transcript of our May 1998 Meeting that you will be receiving momentarily, the MLA Report that is prepared twice a year, and Committee Newsletters that Committees submit as their projects and needs require.

FALL MEETING FRIDAY, NOVEMBER 6, 1998 - NEW YORK CITY

The Fall General Meeting of the Association will be held in the Great Hall at the Association of the Bar of the City of New York on the first Friday in November, November 6th. Committee Meetings will commence Tuesday, November 3rd and continue on the 4th and 5th.

Please mark your calendar now. As inevitably occurs, there may be some conflicts among Committee meetings. This is unavoidable due to the number of substantive law Committees that we have, the active participation in each of the Committees and the limited number of days that we have to conduct meetings. However, the Officers work diligently on this scheduling. I would hope that you can appreciate the fact that our Membership Secretary Winston Rice, in coordinating the meeting dates with Committee Chairs, strives to avoid as many conflicts as possible.

In the very near future, you will be receiving additional information concerning the General Meeting, the black tie dinner dance that will be held at the Marriott Marquis on Friday night, November 6th and a cross-referenced schedule of Committee and Subcommittee meetings. I hope that you all will be able to attend.

A SCHEDULE OF FUTURE MLA EVENTS

An Officers and Board Meeting will be held on August 20th to 22nd in Seattle, Washington.

Please mark your calendar for the future events that you will wish to attend.

1998

Committee Meetings (Tuesday, 3rd November to Thursday, 5th November, 1998) and General Meeting, Association of the Bar of New York, 44th Street, Friday, November 6, 1998.

Dinner Dance at Marriott Marquis, evening of Friday, November 6, 1998.

1999

Centennial celebration and Annual Meeting, May 4th through May 7, 1999, in New York.

Committee Meetings and General Meeting in Orlando, Florida at the Hyatt Regency Grand Cypress, week of October 11, 1999.

COMMITTEES, PROJECTS AND STUDY GROUPS

Two projects are completed: the Long Range Planning Report of the Strategic Planning Study Group was submitted to the Officers and Board for their review on April 30, 1998, and the Code of Professional Conduct of the Professionalism Committee, chaired by Ben Reynolds, who completed its Report.

The Strategic Planning Study Group explored many areas. This Study Group was chaired by George Waddell of San Francisco. The Study Group consisted of the following members:

Philip A. Berns
Joseph D. Cheavens
Theodore S. Cunningham
George G. Freehill
Emery W. Harper
Anne D. Hopkins
J. Dwight LeBlanc, Jr.

Denise S. Blocker
Michael Marks Cohen
Professor Robert Force
Robert S. Glenn, Jr.
Chester D. Hooper
Alfred J. Kuffler
Hilliard L. Lubin

K. H. Mao
James F. Moseley, Jr.
Stephen C. Smith
Joanne Zawitoski

David W. Martowski
David A. Nourse
David McIntosh Williams

Currently, the Board has this Report before it.

In addition, the Chairman of the Professionalism Committee, Ben Reynolds of Houston, submitted the Report that was unanimously passed at the General Meeting. The Committee consisted of:

John D. Kimball, Vice Chair
George W. Healy
Richard Binzley
Hon. Charles L. Briant, Jr.
Hon. Edith Brown Clement
Hon. Harold R. DeMoss, Jr.
Paul D. Hardy
Bruce A. King
Raymond T. Letulle
Agnes Martin
Joseph P. Milton
Howard L. Myerson
Hon. Thomas C. Platt
Kenneth E. Roberts
Charles F. Tucker

James K. Carroll
Andrew A. Tsukamoto
Hon. Susan H. Black
Hon. Alma L. Chasez
Tucker H. Couvillon
John J. Devine
Hon. Alex T. Howard, Jr.
J. Dwight Le Blanc
Frank J. Marston
Michael A. McGlone
Thomas J. Muzyka
Michael D. O'Keefe
W. Boyd Reeves
Howard J. Sobczak

You will find enclosed with this Newsletter your copy of the Code of Professional Responsibility that is printed on high quality parchment and is suitable for framing. This Code was prepared after countless contributions. The Code is meaningful and significant, yet succinct. It sets forth standards by which we must live and conduct ourselves. These rules are merely a minimum goal and the reputation that the MLA enjoys is because of the efforts of our membership to exceed all of these standards.

We owe a great deal of thanks to each of these Study Groups who performed admirably and ventured into areas that had not been explored by the Association in years past. Each of the Study Group Chairs did a sterling job in coordinating their Study Group and also concluding the study in a prompt period of time.

DIRECTORY

As work in progress, all seven Officers are hard at work on the Directory. The Directory is corrected as of June 15th, proofread, revised on countless occasions, drafted and redrafted. The printer concludes this progress around early September and the Directory is mailed at that time to each of you so that it should arrive around early October.

COGSA

As to other work in progress, the Steering Committee of the Carriage of Goods Committee under Chair, Vince DeOrchis, continues its work on COGSA '98. The Bill has been redrafted by the Senate Committee but is not in its finalized form. While the redrafted Bill is quite lengthy, it was felt appropriate to submit a copy at this time to each of you for review. It is enclosed. Please review the Bill. Should you have questions please do not hesitate to call upon the Chair of the Carriage Committee or members of the Steering Committee. The members of the Steering Committee are as follows:

Chester D. Hooper	James F. Moseley
Howard M. McCormack	George F. Chandler, III
Michael F. Sturley	William J. Augello
Raymond P. Hayden	Marilyn Lytle
Karyn Booth	Jon Roethke

Since the annual meeting in May, 1998, the attached new Senate redraft of the COGSA Proposal has been released by the Senate staff for the Committee on Commerce, Science and Transportation. That draft, which is the fourth re-write by the Senate, adopts most of the corrections and amendments suggested by the MLA Steering Committee.

A few minor adjustments to the Draft Proposal are still being formalized, including the language insisted upon by the railroads and truckers to provide for their exclusion from the statutory coverage of the Act. (attached copy has insert typed).

A Senate Bill number has not yet been issued by the Senate staff to the Proposal, in large part because they are waiting for a resolution of the objections raised by the American Waterways Operators (AWO) at the Senate hearing on April 21, 1998. The MLA has, in fact, been in close contact with the AWO. A meeting with the AWO is expected to take place within a couple of weeks to resolve any remaining issues.

While wide-spread support for the MLA proposal continues to grow, some parties, mostly outside the United States, have noted concerns about the Proposal. Those concern mostly center around the perceived extra-territorial effect of the Proposal. Through the efforts of Mr. Hooper, in particular, the Chair and the Steering Committee, the MLA has assured everyone that the proposed Act is expected to be enforced only by American courts, and that it provides for a fair and equitable liability scheme.

Given the exceptionally short session of the present Congress, it is expected that the Proposal will not be acted upon until after the new Congress convenes in 1999.

CENTENNIAL COMMITTEE

Chairman of the Centennial Committee, Ted Cunningham and the Committee wish to announce plans that have been made thus far. More specific details will be

forthcoming at or before the November '98 meeting. All of the Centennial activities will take place in New York City on the 4th, 5th, 6th and 7th of May, 1999 and the General Meeting will be at the Association of the Bar of the City of New York at the usual time.

On Tuesday, May 4th, a reception will be held at the Boathouse in Central Park. The time for the reception is late afternoon to early evening. The early schedule will leave time for attendees to make additional plans for that evening.

On Wednesday, May 5th, at the Museum of Modern Art (MOMA) there will be an evening reception and buffet dinner. In addition to having access to the galleries of the Art Museum, it is anticipated that the garden will also be opened. This is a black tie event and will be one of the highlight events of the Centennial.

On Thursday, May 6th, in the late afternoon and early evening there will be a maritime exhibition at the new Federal Courthouse with a theme concerning Ocean Liners that won the blue ribbon for the fastest Trans-Atlantic crossing. Featured will be an outstanding maritime exhibition that is being placed there in conjunction with several sponsors, including The Maritime Law Association. This exhibition will be followed by a reception

Friday, May 7th, will begin with a meeting at the Association of the Bar of the City of New York at the usual time. Evening plans will be announced later, but will not include the traditional black tie dinner at a New York hotel on Friday evening. The only black tie event will take place at the Museum of Modern Art (MOMA) on Wednesday evening.

ISM STUDY GROUP

Chairman of the ISM Study Group is Tony Rodriguez of New Orleans. Tony presented an overview of ISM at the May, 1998 meeting, which is included in the transcript for that meeting. I would suggest that you review this. The implementing date was July 1st. Various reports on the International scene reflect that there is substantial compliance.

Also, for your information, I quote from the U.S. Coast Guard Marine Safety Newsletter 3, July issue, 1998, as follows:

"Ports around the world have been put on red alert to catch hundreds of ships that have failed to comply with tough new maritime safety rules that came into effect July 1, 1998. The new measures, contained in the International Safety Management Code (ISM), represent a radical new approach to safety by obliging shipowners to establish management systems in their offices onshore to back up security on the high seas.

The ISM Code is mandatory for all oil tankers, gas and chemical carriers, bulk ships, cruise liners, passenger vessels and cargo ships above 500 tons - as estimated 19,000 vessels. The Code is

written into the International Convention for Safety of Life at Sea (SOLAS) which has been adopted by 128 nations representing over 97% of the world fleet.

Of the 19,000 vessels that must comply with the ISM, 20% missed the deadline, according to conservative industry estimates. While many are expected to sign up in the coming weeks, hundreds of vessels may continue to trade without the Code. An additional 20,000 ships, mostly smaller vessels, including offshore drilling rigs, must comply with the code by July 1, 2002.

The ISM Code lays down basic rules such as having instructions and safety procedures written in languages crews understand. Officers are frequently from a different country than their crew and must communicate with seamen in broken, simplistic English. This makes it important to have safety instructions and procedures written in the crew members' native languages.

Ports in North America, Japan, Europe and Australia have vowed to trap the ISM dodgers. Classification societies say they will report owners to the country where their ships are registered. Protection and Indemnity (P&I) Clubs, which provide liability insurance, have made membership conditional upon ISM certification."

IMO LEGAL COMMITTEE

The 77th Session of the IMO Legal Committee was held the week before our Annual Meeting in May, 1998. The U.S. delegation was headed by Captain Malcolm J. Williams, Jr., USCG and included Lt. Commander Bruce Dalcher, USCG, Captain Derek Capizzi, USCG., Mr. Robert Blumberg of the State Department, and Ms. Linda Burlington, NOAA.. Also included in the delegation were James F. Moseley and William R. Dorsey, III.

At the conclusion of the 76th Session in the fall of '97, instructions were given to the correspondence group to study and report at the 77th Session on financial security and to focus on the 1974 Athens Convention on Passengers and Their Luggage as amended by the 1990 Protocol. Later, the CMI suggested that perhaps passenger accident insurance would be a matter to be considered in addition to some form of mandatory insurance. This was debated in the 77th Session. The correspondence group continues to study this matter for the purpose of the 78th meeting. There were substantial discussions on jurisdiction, basis of liability and, in fact, on the broader question of financial security. This matter will be an ongoing discussion.

In addition, the Wreck Removal Convention was discussed, since the Legal Committee had a report from the correspondence group concerning some draft articles for a new convention on this subject. Consideration of this draft had been an ongoing source of discussions in numerous past committee meetings. Efforts on this project remain a long way from completion, in substantial part due to the fact that reasoned doubt is expressed by some delegations concerning the need for such a convention.

The Legal Committee also made some progress in the areas of pollution from ship's bunkers. The United States delegation submitted a paper outlining its experience under the Oil Pollution Act of 1990. Some representatives expressed opposition and it is apparent that work on this item is far from complete. Future time will undoubtedly be devoted to this issue in forthcoming sessions over the next years.

The IMO Legal Committee will meet in October, 1998, in London. Bill Dorsey and I will attend as advisors to the U.S. delegation.

THE CANADIAN MLA

The Canadian MLA and our MLA have a close working relationship. This is apparent through our coordination concerning international matters, including activities at the CMI. Moreover, we closely coordinate areas of our mutual interests. This is evidenced by their leadership attending our spring and fall meetings, and also their kind invitation to your leadership to attend their meetings. You will recall, Nigel Frawley, President of the Canadian Maritime Law Association, was presented a Resolution of Appreciation on your behalf at our May Meeting.

Jim Moseley and I were invited to attend the Annual Meeting in Montreal in June, 1998, where Nigel Frawley retired as President of the Canadian MLA, and was succeeded by Barry Oland of Vancouver. Our Canadian neighbors are extremely hospitable and great partners in our mutual endeavors. Moreover, Nigel was extremely gracious, and indeed overly generous in his remarks that I quote, in part, from his President's Report to the membership, as follows.

"I have worked very closely over the last two years with President Jim Moseley, who is present with us today, and his Vice-President, now President, Howard McCormack, who is also with us today. I pay great tribute to these two gentlemen for their assistance and wise counsel over the last two years. President Moseley even took the time during the U.S. Thanksgiving weekend to come to Ottawa for the Judges' Seminar where he presented a very scholarly paper on jurisdiction difficulties and how they are solved between the U.S. Federal Courts and their State Courts. We are in the process of having his paper published in the Canadian Bar Review. When I was in New York for their Spring meeting, President Moseley presented a Resolution of Appreciation to me. It will be proudly hung in our Secretary's office or as the new President directs."

I look forward to continuing this close relationship with Barry Oland, his superb leadership group and the Canadian MLA.

AVERAGE ADJUSTERS ASSOCIATION OF THE UNITED KINGDOM
AND AVERAGE ADJUSTERS ASSOCIATION OF CANADA

I had the honor of representing the Association at the annual meetings of the British Average Adjusters in London in May and the Canadian Average Adjusters in Montreal in June. I extended to both of the Chairmen the best wishes of our Association. David Pannell of the British Association and Brian Fuller of the Canadian Association were most pleased to acknowledge the cooperation and friendship between their Association and the Maritime Law Association. Jim Moseley and I were also pleased to be elected as members of the Canadian Association.

RECENT LOSSES TO THE ASSOCIATION

It is with regret that I advise of the passing of four of our finest members. Each of their contributions and participation were well known to our members.

J. Edwin Carey passed away this summer. He had served the Association in so many capacities, including Secretary, Membership Secretary, Vice President and President during 1972 to 1974. He was a member of the firm that is now known as Hill Rivkins & Hayden, LLP of New York City. He continued his involvement in every phase of the MLA until his death.

Honorable David W. Dyer, Senior Circuit Judge of the 11th Circuit. His life of service extended to the 5th Circuit and the 11th Circuit. He had served as a member of the Executive Committee member of The Maritime Law Association from 1956 to 1959.

Norman Cowie of Pittsburgh had just concluded his service to the Association as Chairman of the Uniformity Committee. He assisted in *Amicus* briefs and other important MLA projects.

Richard Ashworth of New York, a former partner of Haight, Gardner, Poor & Havens. He was deeply involved in MLA matters, Committee activities and was a well respected practitioner.

Each of these members will be remembered in proceedings at our Fall meeting.

Sincerely,

Howard M. McCormack

Howard M. McCormack
President