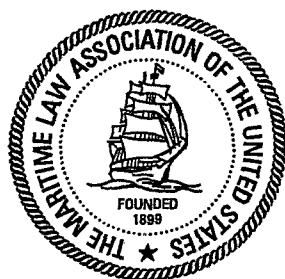


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September, 2000

Document No. 752

PRESIDENT'S SUMMER/FALL 2000 NEWSLETTER

FALL MEETING - NEW YORK

Dear Member:

The fall meeting of the Association will take place in New York during the week of October 30-November 3, culminating with the usual general meeting of the Association on Friday morning November 3. As in the past, the general meeting will take place in the Great Hall at the Association of the Bar of the City of New York, 42 West 44th Street. There will be a black tie dinner dance at the Marriott Marquis Hotel on Friday evening. This event is reserved for members and their "significant others." Brett Kelly, the hard-working Chair of the dinner dance activities, assures me that this year's dinner dance will be the best ever. The announcements for this fall MLA week accompany this Newsletter. I encourage you to indicate your intention to attend the dinner in accordance with the provisions of the dinner notice as soon as possible. This would be a great help to those arranging seating for the dinner dance. For those who seek assistance with respect to hotel accommodations, once again this assistance will be provided by Resorts Meetings. Please take particular note of the various dates by which the hotel reservations must be made. You should feel free to contact the hotel directly or Resorts Meetings with reference to accommodations for hotels designated in the notice. Book early as I am advised that the week of October 30 is also Marathon Week in New York.

The notice also contains a complete listing of all committee meetings of the

Association that are scheduled for MLA week. In addition to the committee meetings there are several other important events that are scheduled for that week. On Thursday November 2, the biennial Nicholas Healy lecture will be given at the New York University School of Law commencing at 5:00 p.m. This year's speaker will be Professor Robert Force of Tulane Law School. The title of his speech is "Deconstructing Jensen: Admiralty and Federalism in the 21st Century." Professor Force is, of course, well known to almost all members of the Association and is one of the leading maritime law academicians in the United States. Given the assault that some writers have made on the nature and relationship of admiralty and federalism, his speech will be both timely and important.

There will also be a number of events for which CLE credits will be available. On Friday afternoon the Young Lawyers Committee and the Forum of Maritime Law Teachers will sponsor a program entitled "Maritime Suits Against Sovereigns". The irrepressible Philip A. Berns will speak on suits against the United States. Professor George Walker of Wake Forest Law School will speak on suits against foreign sovereigns. As in the past, this program will take place in the Great Hall at the Association of the Bar of the City of New York commencing at 2:30 p.m.

On Tuesday, October 31, BIMCO will hold a seminar entitled "Tanker Time Charters - Negotiating and Operating under Tanker Time Charter Parties." This program, one of the sponsors of which is your Association, will be presented at the New York Helmsley Hotel commencing at 9:15 a.m. A copy of the program and general information about the program has been sent to you direct by BIMCO. I note that among the speakers are two Association Proctor members. Michael Marks Cohen will be speaking on the "Strengths and Weaknesses of SHELLTIME 4 and a Comparison to the new BPTIME 3." John Kimball will speak on "Re-Delivery, including Overlap and Underlap." In addition, non-lawyer member Anthony Siciliano will speak on "Off-hire and Deduction from Hire."

ADMINISTRATIVE DEVELOPMENTS

1. Directory

I am happy to say that a new MLA Directory should be in your hands prior to our general meeting in November. If the long hours spent by our Membership Secretary, Winston Rice, and our Membership Administrator in Buffalo, Robin Becker, are any indication, this Directory should be the most up-to-date and most accurate in years. You will notice some changes. The Purposes and Organization section has been amended to

include more of the history of the Association that was rediscovered during our centennial year. That section has been renamed "History, Purposes, Organization and Activities." The Association is indebted to past presidents John Sims and Nick Healy for their contributions to this portion of the Directory. In addition, Winston Rice has worked both long and hard to streamline that section and bring it up to date. This year's Directory will also contain e-mail and web addresses where they have been provided by members.

You will have noticed that the last Directory was published two years ago, departing from our recent practice of publishing it every year. The reason for this was, quite frankly, financial. There were a number of additional expenditures last year occasioned by the centennial and also by the start-up of the web site. Accordingly, the Board decided that we would forego publishing the Directory last year. I know there has been speculation that we may do away with the Directory in light of the fact that we now have a web site. Let me say that may be the way of the future, but the Officers and Board have no plans at present to dispense with a Directory, and I expect that we will go back to our usual practice of publishing the Directory every year for the foreseeable future. Although the web site has many advantages, I personally still find it simpler when looking up a member to grab the Directory, and I know that others feel the same way. So, for the time being, you can rest assured that the Directory is not a thing of the past.

2. Web Site

Speaking of the web site, the Board has given the go ahead for the establishment of a Document Library on our web site. Initially we plan to place the Proceedings and, possibly, the MLA Reports from the past few years in this library. Going forward it is anticipated that we will continue to put the Proceedings and MLA Reports in this library, as well as important committee reports and the like. It is our hope that the extensive past documentation that is currently on microfiche can, to some extent, also be made available on the web site. In this connection see the new project that is being taken up by the Young Lawyers Committee discussed below.

You will also notice that we have established a Links Section on our web site and have begun to list various links to other organizations and web sites. If you have a suggestion as to an appropriate link you can submit it through the procedure indicated on the Links Section of our web site, or you can send your proposal by fax, e-mail or letter to either me or Glen Oxton. My e-mail address is wdorsey@mail.semmls.com. Glen Oxton's is goxton@healy.com. The web site address is www.mlausa.org.

Also please note the Events Calendar section of our web site. Here we try to list

events of importance to the Association and its members. Again, if you wish to suggest events that should be on this calendar there is a method for doing that at the Events Calendar section of the web site or you can contact either me or Glen Oxton.

The Association owes a great debt of gratitude (again) to Winston Rice for his efforts in setting up the web site. He was the one who negotiated the contract with our service provider and essentially took the project in hand and ran with it. It is thanks to his efforts that we finally have a web site that is up and running. Looking forward I have designated Glen Oxton as our "web master." Glen is the Chair of our Electronic Communication and Commerce Committee. It is his committee that will be considering and suggesting further uses and recommending policy for our web site. Those of you that have input with respect to membership data on the web site should continue to contact Winston. Those that have suggestions or information concerning other aspects of the web site should contact Glen.

3. Amicus Requests

Since the May meeting we have received three requests for participation by the Association as amicus curiae. The first request was really a request involving two cases, Columbus America Discovery Group v. Atlantic Mutual Insurance Co. and Yukon Recovery, LLC v. Certain Abandoned Property. The request asked us to file amicus briefs in connection with petitions for certiorari that were intended to be filed in both of those cases. The issue in those cases was the definition of abandonment in salvage law. This request was declined, it being felt by the President and two Vice Presidents that the issue involved and the context of the cases in which they arose did not satisfy the very stringent criteria set forth in by-law 702.3.

The second request came in connection with the case of Mobil Mining and Minerals v. David R. Nixon and Director, Officers of Workers Compensation Programs. The question in that case is whether, when any part of a manufacturing facility is used for loading and unloading vessels, the entire facility, including non-maritime areas, is "customarily used" for such purposes and thus is a "covered" site under Section 3(a) of the Longshore and Harborworkers' Compensation Act. There is a clear case of a conflict between the Circuits on this issue. The Fifth Circuit has adopted an expansive definition that provides that, in such case, the whole facility is a covered site. Other circuits, especially the Fourth Circuit, have adopted a narrower approach to the interpretation of Section 3(a). Given the confusion in the lower courts and lack of uniformity, the Board voted in favor of filing an amicus brief in support of Mobil Mining's petition for certiorari to the Supreme Court from a decision entered by the United States Court of

Appeals for the Fifth Circuit. The MLA will support the petition only in so far as it seeks to persuade the Supreme Court to take certiorari in the case in order to resolve the conflict among the circuits. The MLA will take no position on the merits of the case. This brief is due October 6, and is being prepared by Pat Cooney, the Chair of our Uniformity Committee.

The third request comes in the case of Stepansky v. Florida. In that case the state of Florida, pursuant to a Florida statute on "special maritime criminal jurisdiction" seeks criminal jurisdiction over an alleged crime committed on the high seas, beyond state waters, on a foreign flag vessel, where neither the victim nor the alleged perpetrator is a citizen or resident of the state. Specifically, Florida has charged Mr. Stepansky with burglary and attempted sexual battery of a teenage girl that occurred on board a cruise ship when the ship was approximately 100 nautical miles off the Florida Atlantic coastline. A Florida Supreme Court has upheld the bringing of these charges, and Mr. Stepansky intends to seek certiorari from the Supreme Court of the United States on the issue of whether federal courts exercise exclusive jurisdiction over crimes or offenses committed on the high seas beyond state waters. Although there was a division of opinion, the Board has voted not to enter this case as amicus at this time.

4. Action on Committees

There has been some activity restructuring committees. I have reinstituted the Continuing Legal Education Committee. Larry Bowles of New York has kindly consented to be Chair of this committee and Denise Blocker of San Francisco, Vice Chair. The focus of this committee is to coordinate, obtain and maintain accreditation as appropriate of all MLA CLE activities. Most recently this committee has succeeded in gaining for the MLA from the Association of the Bar of the State of New York accreditation as an authorized provider of CLE.

At the request of the Committee on Alternate Dispute Resolution that committee has been disbanded and its functions and membership merged with the Committee on Maritime Arbitration, which has been renamed the Committee on Maritime Arbitration and Mediation. This committee is chaired by Donald Kennedy of New York.

COMMITTEE PROJECTS

1. The Carriage of Goods Committee

The disappointing news is that our new COGSA bill has not been introduced in Congress. The good news is that Senator Kay Bailey Hutchison has reaffirmed her support. In a June 9 statement responding to questions from American Shipper Magazine she expressed the hope that movement on the revised COGSA could take place this year. She went on to say:

"My goal for this legislation is to craft a bill that provides a single cargo liability system to cover intermodal transportation; offers a reasonable increase in the per package liability limit; modifies existing burden of proof rules for determining damages that reflect comparative fault; eliminates the error in navigation defense for goods carried under COGSA; and addresses the question of dispute resolution."

See American Shipper, July 2000, page 20. Accordingly we are still hopeful that some action will be taken to introduce the COGSA legislation before the end of the year. However, given that this is an election year we must realize that anything can happen.

2. Practice and Procedure

The Committee on Practice and Procedure recently received a complaint concerning a proposed amendment to local admiralty rule (E)(9) in the United States District Court for the District of New Jersey that would raise the security deposit for seizure of vessels more than 65 feet in length from \$4,000 to \$10,000. It was felt that this proposed increase in the required security deposit may be unwarranted and may unnecessarily discourage the prosecution of legitimate claims against vessels and their owners or charterers. Accordingly the Board received and approved a request from Jim Bartlett and Andy Goldstein, the Chair and Vice Chair, respectively, of the MLA Committee on Practice and Procedure, to urge the court not to enact the proposed amendment. On behalf of the Association I wrote to the Clerk of the Court, with copies of the letter to the Chief Judge, urging the court not to enact the proposed amendment. Further, in light of this development, I have asked the Practice and Procedure Committee to explore the situation in other jurisdictions to determine if there are other instances of excessive demands for security. Any of you that have information that you think bears on

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this issue should communicate with Jim Bartlett.

3. Committee on Salvage

At its meeting in May of this year the Salvage Committee constituted a Salvage Convention Working Group under the chairmanship of Professor David Sharpe. This working group is looking at the Salvage Convention of 1910, the Salvage Convention of 1989, and the U.S. Salvage Act to consider what, if any, recommendations should be made for any action by the MLA in light of the ratification by the United States of the Salvage Convention of 1989. The study is more akin to a consideration of potential conflicts of law by a law review commission than an inquiry into problems triggered by a recent case. I have seen a rough draft of the working group's report which contains, among other things, a first rate exposition of the status of salvage law in this country as affected by the Salvage Convention of 1910, the Salvage Convention of 1989 and the U.S. Salvage Act. I think we can look forward to an interesting report on this subject from the Salvage Committee at our meeting in November.

4. Environmental Crimes Subcommittee

Larry Kiern and Fred Kuffler of the Environmental Crimes Subcommittee report that Senator Breaux of Louisiana and Congressmen Vitter of Louisiana, Coble of North Carolina and Clement of Tennessee have introduced companion bills into Congress, the effect of which would be to prevent the use of the Refuse Act and the Migratory Bird Act for criminal prosecutions in connection with the discharge of oil. In essence the legislation would limit criminal prosecutions relating to the discharge of oil to those crimes set forth in OPA 90. The House Bill is HR 5100. The Senate Bill is S.2944. The bills reflect the position that the MLA took in a statement to the House Committee on Coast Guard and Marine Transportation last year. Hopefully these bills will pass muster with Congress.

5. Maritime Personnel Committee

Recently John Schaffer, the Chair of the Committee on Maritime Personnel was sent a questionnaire propounded by the IMO/ILO Ad Hoc Expert Working Group on Liability and Compensation Regarding Claims for Death, Personal Injury and Abandonment of Seafarers. This questionnaire was forwarded by Lt. Cmdr. William Chaney of the Coast Guard's Office of Maritime and International Law seeking our assistance in preparing a response. Under John Schaffer's supervision answers were prepared by Paul Edelman, Doug Stevenson of the Center for Seafarer's Rights, and

Michael Marks Cohen, which were then forwarded to Commander Chaney and eventually were incorporated by him into his response to IMO/ILO. All of this was accomplished by Messrs. Schaffer, Edelman, Cohen and Stevenson on a very short time frame. I am very much indebted to these four members for responding so quickly and so expertly.

6. Young Lawyers Committee

Some years ago Past President Ken Volk completed the rather herculean task of digesting and indexing MLA documents 1-664 dated from 1899 to 1986. The digest of these Documents that Ken prepared is approximately 345 pages long. The index itself is 72 pages long. There is no index of Documents after 1986. As a consequence I have charged the Young Lawyers Committee, chaired by Doug Muller, with the task of indexing our Proceedings, MLA Reports, and Association and Board Resolutions for the past fourteen years. This is a formidable task, but if split up among a larger number of young lawyers, it should be manageable. In any event, it is an extremely important task because without an index it is often quite time consuming and difficult to find references to specific actions taken by the Association or useful reports of committees. It is, of course, the aim that once this index is completed it can be coordinated with Ken's and put into our Document Library on our web site.

INTERNATIONAL ACTIVITIES

1. CMI Activities

At its May 5 General Assembly meeting in London the CMI elected MLA members Lizabeth L. Burrell, Christopher O. Davis, and Warren Faris as new Titulary Members. In addition Stuart Hetherington of Australia and Dr. Gregorios Timagenis of Greece were elected to the Executive Council replacing Ron Salter of Australia and Panayotis Sotiropoulos of Greece, whose terms expired.

Speaking to Titulary Members, you will notice that your CMI dues for this year were somewhat lower than they were last year. This is because of the decline in the value of the Euro as opposed to the dollar. The CMI anticipates that it will be raising its dues next year approximately 3%, although that is subject to review.

David Angus of Canada reported that considerable progress had been made in bringing the finances and accounting procedures of the CMI into line. In this connection three member Associations, Egypt, India, and Sri Lanka were expelled for long-standing non-payment of dues.

The major project currently being undertaken by the CMI is its work, in conjunction with UNCITRAL, on issues of transport law. Stuart Beare of the United Kingdom is Chair of the CMI International Study Group on Transport Law. The rapporteur of that Study Group is Professor Michael Sturley. Our delegates on the Study Group are Chet Hooper, Vince DeOrchis and George Chandler. There have been three meetings of this Study Group, the most recent one occurring on July 7 and 8 in New York City. The purpose of this group is to work toward the development of a new liability regime to reflect modern commercial practice and to replace the Hague, Hague/Visby and Hamburg Rules. CMI is involved in this joint exercise with UNCITRAL to develop a new convention or other instrument to cover numerous areas of maritime transportation. Delegates to the CMI Colloquium being held in Toledo, Spain, September 17-20, will receive reports of progress with respect to this project. In addition, a fourth meeting of the International Subcommittee is scheduled for October 12 and 13 in London. All of this is in preparation for the 37th CMI Conference to be held in Singapore on February 12-17, 2001, where issues of transport law will be one of the main topics under consideration.

The MLA fully supports this work of the CMI and is actively engaged in the project. Further, I, and those concerned, believe that enactment of the revised COGSA in the US will be of great assistance in persuading our Congress to ratify a new CMI/UNCITRAL Convention on Transport law.

In addition to issues of transport law the upcoming CMI Toledo Colloquium will also deal with issues of marine insurance, general average, and the implementation and interpretation of international conventions, all current CMI projects. As is the case with transport law, this Colloquium will offer a foretaste of the Singapore conference as all of the above issues are on the Singapore agenda. In addition delegates to the Singapore conference will be invited to consider proposed amendments to, and vote on, a draft model law on piracy.

In connection with future CMI elections, the MLA's Board of Directors has unanimously agreed to recommend to the CMI Nominating Committee the election of Frank Wiswall as Vice President of the CMI for a second four year term, and I have so advised Nigel Frawley of Canada, Chair of the CMI Nominating Committee. Frank's first term as Vice President expires in the year 2001.

2. UNCITRAL

On July 6 of this year the United Nations Commission on International Trade Law (UNCITRAL) and the CMI held a transport law colloquium at United Nations

Headquarters in New York. At this colloquium specialists in international transport law discussed the current open issues that may require modern and internationally harmonized solutions. Although some of the speakers were lawyers, many were not. The general theme of the meeting was that the time was ripe for a new convention, and that any such convention ought to strive for the uniformity and harmonization of transport law, and deal with such matters as multi-modal door to door transport, e-mail, and uniform bill of lading laws, as well as transport liability.

Following the seminar your Association hosted a small reception for the speakers, CMI President Patrick Griggs, UNCITRAL representatives and various other seminar participants. The reception was held at the Sky Club in the Metropolitan Life Building. It was an enjoyable conclusion to a very interesting day. My thanks go to First Vice President Ray Hayden and Marshall Keating for making the arrangements for this reception, and to Kathleen Quigley of Hill, Rivkins & Hayden for her indispensable assistance in connection with the invitations and acceptances.

3. IMO Legal Committee

The next meeting of the IMO Legal Committee will be take place in London from October 16-20. I will be attending as a private sector advisor to the U.S. Delegation. There will be two main topics at this session. The first is the Committee's continuing work on a draft protocol to the Athens Convention on Liability Relating to the Carriage of Passengers and Their Luggage by Sea. There has been difficulty in reaching a consensus on this protocol. Since the last meeting of the IMO Legal Committee a number of delegates from other countries, and a few non-governmental observers, including the international group of P & I clubs, have met in an attempt to come up with a compromise that would attract a consensus to ensure progress in obtaining an agreed protocol. Essentially this compromise proposal calls for a system of two tier liability. The first tier would impose strict liability for any death or personal injury occurring in connection with an "operational incident" such as shipwreck, collision, stranding, an explosion or fire or defect in the ship. The only exception would be for injuries or death caused solely by Acts of God, war, etc., intentional acts of third parties, or the state of health of the passenger. The ship would be liable up to a designated per capita limit on the basis of this strict liability. Above this per capita limit in cases of operational incidents, and in all other cases, i.e., slips and falls or passengers getting hit on the head by coconut drinks, the carrier would be liable for negligence up to a higher per capita limit. The negligence would be presumed, and, therefore, the carrier would have the burden of proving that it was not negligent. Contributory negligence would result in a pro rata diminution of any award. The amounts of the per capita limits would be left to a diplomatic convention to

decide. In addition there would be compulsory insurance with a right of direct action against the insurer. Still open is the question of whether there would be a per ship cap on compulsory insurance, and whether this would be lower than the per capita limit multiplied by the number of passengers who are authorized to be carried. It remains to be seen whether or not this "compromise" proposal will meet with the broad consensus that will be necessary for there to be progress on the protocol to the Athens Convention.

A new item that will come up at the next meeting of the Legal Committee will be proposed amendments to the limits of oil pollution liability under the Civil Liability Convention and the IOPC Fund Convention. This is spurred by the recent incident off the coast of France involving the tanker ERIKA. It is estimated that the total cost of responding to that incident, plus compensation for claims, may exceed the amount of compensation available under the CLC and the Fund Conventions. Apparently, this is not the first time that the compensation system set up under those two conventions has been threatened with potential claims in excess of the available amount of compensation. Article 15 of the Civil Liability Convention and Article 33 of the Fund Convention set out simplified amendment procedures for amendment of the limits. This procedure does not require the convening of a diplomatic conference, but provides that the amendments may be decided by contracting states meeting at the Legal Committee of the IMO. This procedure has never been invoked and has been available only since 1996. It will be interesting to see how this procedure unfolds at the upcoming session of the Legal Committee. Of course, the US is not a party to either the CLC or Fund Convention. OPA 90 rules the day in the U.S.

With respect to old business, the Legal Committee is still working on the development of a convention on wreck removal. This has been pushed to the back burner in order to complete the Bunker Pollution Convention and to push forward the protocol to the Athens Convention. There are still a number of controversial items concerning a proposed wreck removal convention, and it is not possible to predict when this project will be next brought to the floor of the Legal Committee.

The Legal Committee has also formed a correspondence group to monitor the implementation of the HNS Convention. The concern here is that implementation of this Convention is not proceeding as quickly as it should. Accordingly, this group has been put in place to facilitate the exchange of information and monitor progress, and will be reporting to the Legal Committee on a regular basis.

4. UNESCO Draft Convention on Underwater Cultural Heritage

The most recent meeting of the group of governmental experts working on the UNESCO Draft Convention on Underwater Cultural Heritage (UCH) took place during the week of July 3-7 in Paris. Thanks to the efforts of MLA member Robert Blumberg of the State Department, who is the head of the U.S. Delegation to this meeting of experts, John Kimball, the Chair of the MLA Study Group on UCH, was named a member of the U.S. Delegation and participated at the recent meeting. John reports that the U.S. Delegation, although not a member of UNESCO and, therefore, not entitled to vote, has been working (1) to limit the definition of UCH to wrecks and artifacts of archaeological and historic significance; (2) to ensure that the jurisdictional provisions do not conflict with the United Nations Convention on the Law of the Sea; and (3) to ensure that the Rules regarding historical salvage provide, in some measure, for commercial services and a multi-use concept.

Given the makeup of the UNESCO governmental experts, who are basically from the cultural ministries of the governments involved, it is not certain how successful the U.S. Delegation will be in this regard. As for timing, the next meeting of the group of experts will probably take place sometime in April of next year. The stated goal is to complete a Draft Convention for presentation at UNESCO's General Assembly meeting in October of 2001. However, given the number of square brackets that are still contained in the Draft Convention, and the disputes that still remain, it is not certain this time table will be met.

RESORT SITE QUESTIONNAIRE

You will recall that we recently sent out to each member a non-New York meeting questionnaire. We received 192 replies to this questionnaire, not exactly an overwhelming response. Nevertheless, I asked Second Vice President Tom Rue to undertake a survey of the responses to see what might be gleaned from them. After studying the survey results prepared by Tom, the Board concluded that it might be in the best interest of the members, and the success of these meetings, to shorten their time frame. Specifically, what we are presently planning to do for the resort meeting in 2003 is to truncate the meeting so that it occurs on Thursday, Friday and Saturday. Committee meetings and CLE events would take place on Thursday and Friday, with Saturday reserved for the general meeting and for the dinner dance. There would be no sports activities during these times. We would schedule all sports activities either before or after the Thursday to Saturday period set aside for the business of the Association. A welcoming cocktail party would be held Wednesday evening instead of Tuesday evening

as in the past. The result of this is to shorten the time frame of the meeting for those who are not interested in sports events. Those that are interested in sports events would still be able to participate, but would do so before (or after) the regular business sessions, committee meetings, and CLE events. In addition, we will be looking at the possibility of obtaining CLE credits in conjunction with some committee meetings.

With respect to the meeting scheduled for October 16-19 next year in Coronado, we already have a contract with the hotel facility and so it may not be possible to truncate the meeting as set out above. Nevertheless, we are going to explore that with the hotel to see if it is possible.

With respect to our resort meetings, the Site Selection Committee under the chairmanship of Ben Reynolds, along with Bob Parrish who is chairman of the Arrangements Committee for 2003, are hard at work in looking at a number of sites that are prospects for our 2003 fall meeting. I hope to have a report from them by the time of our meeting this November.

AMC QUESTIONNAIRE

Enclosed with this Newsletter is a questionnaire prepared by AMC on the use of American Maritime Cases. Since 1923 AMC has been serving the MLA members. As many of you are aware, the advice, cooperation and support from all of us have been a key factor in producing a research tool tailored to our needs. Indeed, in my view, that research tool is not matched by any other in the maritime field.

The advent of electronic research has drastically changed all of our habits as lawyers. Therefore, the editors of AMC need your input as they plan for the immediate future. I urge you to carefully review the questionnaire, complete, and return it to AMC. AMC advises that individual answers, rather than collective answers for the firm, are preferred. A return envelope is enclosed for your convenience, or you can fax the completed questionnaire to AMC at 410-889-3938.

PROPOSAL FOR JOINT SEMINAR IN NEW ZEALAND OR AUSTRALIA

I have received an inquiry from the president of the Maritime Law Association for New Zealand and Australia (MLAANZ) suggesting the possibility of organizing a seminar in one of their major centers, the subject matter being designed with American lawyers in mind. The topics might extend to trade issues as well as issues strictly of

maritime law. The plan is for a short tour to be designed around the seminar, so that there would be opportunities for American delegates to the seminar to visit some of the scenic attractions of both Australia and New Zealand (including golf courses). The concept is an elastic one and, as to timing, the suggestion was that 2002 would be an appropriate year since it is an "off year" in the sense that the MLA does not have its resort meeting in that year.

I have advised Anthe Phillipides, the new president of MLAANZ, that I would advise the membership of this suggestion. I am sorry to say that I doubt that the Association would be able to subsidize such an event. In other words, the lawyer participants would have to do so on their own. Nevertheless, MLAANZ has indicated that the prospects of interesting approximately 25 American lawyers and their spouses would make the proposal viable, and I am sure that anyone who did participate would have both an entertaining and an instructive time. The purpose of calling this to your attention is to see whether there is any interest at this time in such a seminar. If so, I would ask that you contact me.

COMMENTS ON TITANIC GUIDELINES

In 1986 Congress passed the RMS Titanic Memorial Act, urging the State Department to enter into negotiations with Canada, France and England to establish a treaty honoring the Titanic as a memorial. Nothing substantive was done under that legislation until 1996 when the United States began negotiating an international agreement with those countries (the "Agreement"). That Agreement is now imminent. However, these negotiations, and the terms of the Agreement, only became known to the general public earlier this year. The proposed Agreement provides that rules annexed thereto form an integral part of the Agreement. These rules are, in many particulars, quite similar to the UNESCO Draft Convention Annex Rules. They establish in situ preservation as the preferred policy for preservation of the Titanic and its artifacts. They contemplate that activities at the wreck site shall be submitted to a State Party for approval, and outline the extensive details such applications for approval must contain. In other words the Agreement contemplates a permitting process.

In June of this year NOAA published proposed guidelines relating to the Titanic Memorial Act, and, presumably, any Agreement that may be concluded. The guidelines are entitled "Proposed Guidelines for Research, Exploration and Salvage of R.M.S. Titanic" (Guidelines). NOAA sought comments from the public within 30 days. These Guidelines are identical to the proposed Agreement rules. While calling for in situ preservation as the preferred management technique, they do contemplate some recovery

or excavation, but only "when justified by educational, scientific, or cultural interests" or to protect Titanic or its artifacts from "significant threat." In addition, the proposed Guidelines dictate that any recovered artifacts should be kept together as a project collection. NOAA's description of the Guidelines indicates that this means that individual artifacts cannot be sold. NOAA states that this would not preclude sale or transfer of an entire collection to a museum provided the collection is kept together. NOAA goes on to note that current professional curation practices would permit museums to exclude objects from the collection or subsequently deaccess them. Such objects could then be sold by the museum.

On June 21, following Board approval, I submitted comments on the Guidelines on behalf of the Association. We noted that the Titanic is a unique situation for many reasons. We noted further that the Titanic Agreement and Guidelines may be a template for broader U.S. legislation on the subject of "underwater cultural heritage." We reiterated the MLA position previously taken with respect to the Draft UNESCO Convention on that subject. We then went on to say:

[T]he MLA is strongly of the view that the recognition and enforcement of salvage rights by United States' courts need not be incompatible with the preservation of property which may be properly designated as "underwater cultural heritage." We also consider that salvage rights should remain a matter of determination by United States' courts exercising admiralty jurisdiction.

At the suggestion of a State Department official, we posed a number of questions to NOAA concerning the proposed Agreement and Guidelines which were designed to help us to a proper understanding of the Guidelines. We have received no answer to these questions. This may not be surprising in light of the fact that RMS Titanic Inc., the party granted exclusive salvage rights of the Titanic, has filed suit in the Eastern District of Virginia seeking, inter alia, an injunction against the United States from proceeding with the Agreement. The government has moved to dismiss. A hearing is scheduled for September 8.

I am indebted to John Kimball and Professor David Bederman, chair and vice-chair respectively of the MLA Study Group on the UNESCO Draft Convention on Underwater Cultural Heritage, for their exemplary work in the preparation of our Comments on the Titanic Guidelines.

ACTIVITIES OF THE PRESIDENT ON BEHALF OF THE ASSOCIATION

1. May 8-12 - London Maritime Week

Immediately after our general meeting in May, I was in London in connection with the celebration of Maritime London Week. The basic theme of this week was that everything to do with the maritime industry, legal, financial, insurance, chartering, etc., could best be handled in London as opposed to anyplace else in the world. While one might quarrel with the accuracy of that concept, there could be nothing but admiration for the quality of the programs and entertainments during the week, as well as gratitude for the hospitality extended to me as a representative of our Association.

On Monday, May 8, I attended the Maritime London Seminar which took place at Mansion House, the residence of the Lord Mayor of London. The seminar was introduced by the Lord Mayor and the keynote speech was given by Richard Sayer, Chair of the British Invisibles Steering Committee. Richard was anything but invisible as he reported on the breadth and extent of maritime services available in the London market. This was followed by a panel discussion chaired by William O'Neill, Secretary General of IMO. Among the panelists were David Davies, Chairman, Salvage Association; Hugh McCoy, Chairman, Baltic Exchange; The Lord Sterling of Plaistow, Chairman, P&O Steam Navigation; and Max Taylor, Chairman, Lloyd's of London.

On Tuesday and Wednesday of London Maritime Week, I participated in the program sponsored by Tulane University Law School and the British Maritime Law Association entitled "Maritime Law in an International Setting." I acted as both chair and panelist on a panel discussing marine casualty investigations, including the problems that arise when criminal charges are a possibility. On Tuesday evening, I attended a reception at the Guildhall hosted by the Baltic Exchange to mark the centenary of its incorporation. On Wednesday evening I attended another reception at the Guildhall, this one hosted by The Corporation of London to mark the CMI assembly meeting. To those that have never seen the Guildhall, I can only say it is a magnificent and historic building. While the center for civic government for over 800 years, it has also been the location for trials of traitors (Lady Jane Gray was tried and sentenced to death here in 1553) and numerous other historical events.

On Thursday I attended the annual meeting of the Association of Average Adjusters. Instead of the usual address by the Chairman, we were treated to both an entertaining and informative case study and "mini-play," the purpose of which was to demonstrate how the different skills and professions involved in marine insurance claims

arising from a collision can work together. That evening I was the guest of Miles Duncan, the Chair of the Association of Average Adjusters, at their always impressive annual dinner at the Savoy Hotel.

On Friday, I represented the Association at the CMI Assembly meeting following which I was the guest of the Libra Luncheon Club and its Chairman Michael Cairns. The Libra Luncheon Club members are prominent brokers from the London market. Finally, the week was capped by a magnificent dinner hosted by Patrick and Marian Griggs at their home in Essex, just outside London. All in all it was an eventful and memorable week.

2. July 6, 2000.

On July 6 the MLA hosted the reception for UNCITRAL as described above.

3. July 23, 2000

On July 23, I attended the Annual General Meeting of the Canadian Maritime Law Association in Halifax and gave a short presentation on current activities in our Association. While in Halifax, the American contingent, consisting of past presidents Jim Moseley and Howard McCormack, First Vice President Ray Hayden and me, along with our significant others, were royally entertained at various receptions and dinners. In addition the tall ships were present in Halifax as part of Op Sail 2000. It was a splendid weekend, and we extend a sincere note of thanks to our Canadian hosts, particularly Jim Gould, the new CMLA President, and Barry Oland, the immediate past president. I must comment that while the Canadian Maritime Law Association is much smaller than ours, the high quality of their participation and work product is most evident. Even though operating on a budget very much smaller than ours, they are a most effective and impressive association.

4. August 3-4, 2000

Over the weekend of August 3-4 our summer Board meeting was held in Chicago. Arrangements for the Chicago meeting were handled by Warren Marwedel and a number of other Chicago maritime attorneys including Michael Snyder, Dennis Minichello, Robert Reeb, Kimbley Kearney, Barbara Rostow and Ted Robinson. In addition, we were the guests of the Chicago bar at a reception before dinner on the 96th floor of the John Hancock building on Friday evening. Despite airline delays and the inconvenience

they caused, our trip to Chicago and the Board Meeting were a great success. It was particularly heartwarming to see and be with Ted Robinson. At 81 years of age he is still going strong and very much the dean of the Chicago maritime bar.

We want to extend our heartfelt appreciation to Warren Marwedel and all of the Chicago lawyers who worked so hard to make our weekend such a success.

SCHEDULE OF FUTURE MLA AND RELATED EVENTS

As noted above, a calendar of future events is maintained on our web site. I set forth below some of those events that may be of interest to the members of the Association.

1. CMI Colloquium: To be held in Toledo, Spain, from September 17-20, 2000.
2. Houston Marine Insurance Seminar: To be held in Houston on September 25-26, 2000. I will be one of the speakers at this seminar. My topic is "Historic Salvors, Marine Archaeologists, and the UNESCO Draft Convention on Underwater Cultural Heritage." If any member of the Association has an interest in attending this program, please contact Marion McDaniel at Liddell Sapp, phone (713) 226-1295, fax (713) 223-3717.
3. Association of Average Adjusters of the United States Seminar: To be held in New York on October 4; Annual Meeting and Dinner on October 5, 2000.
4. Marine and Insurance Claims Association: Annual Dinner to be held in New York on October 6.
5. Pacific Admiralty Seminar: To be held in San Francisco from October 5-6, 2000. Information for registration should be directed to Barbara Fanning of BASF, 465 California Street, Suite 1100, San Francisco, CA 94104-1826, phone (415) 782-8911, fax (415) 477-2388.
6. American Institute of Marine Underwriters Offshore Energy Seminar: To be held on October 12 in New York at Ricker Auditorium, 180 Maiden Lane, from 9:00 a.m. to noon.

7. IMO Legal Committee: To be held in London from October 16-20. I will be attending as a private sector advisor to the United State delegation.
8. Annual Fall Meeting of The Maritime Law Association of the United States: To be held in New York from October 30-November 3, 2000.
9. BIMCO Seminar on Negotiating under Tanker Time Charter Parties: To be held in New York on October 31 at the New York Helmsley Hotel.
10. Biennial Nicholas J. Healy Lecture: To be held on Thursday, November 2, 2000, at New York University School of Law at 5:00 p.m. The Healey lecturer will be Professor Robert Force of Tulane University School of Law.
11. 37th International Conference of the CMI: To be held in Singapore from February 12-16, 2001. For further information on this activity, please coordinate with the Chairman of the CMI Committee, Michael Marks Cohen.
12. Quarterly Meeting of MLA Officers and Board: To be held in New Orleans on March 26-27, 2001.
13. Biennial Program of the Tulane Admiralty Law Institute: To be held in New Orleans from March 28-30, 2001. All members of the Association will be receiving information directly from the Tulane Admiralty Law Institute on that program.
14. Annual Spring Meeting of the Maritime Law Association of the United States: To be held in New York from April 29-May 3, 2001
15. Annual General Meeting of the Canadian Maritime Law Association: To be held in Montreal, June 6-8, 2001. This meeting will celebrate the 50th anniversary of the Canadian Maritime Law Association.

NOTES OF INTEREST REGARDING MEMBERS

Jean Knudsen, Chair of our Committee on Marine Insurance has been nominated to take over the Chair of the Association of Average Adjusters of the United States. From my personal viewpoint, I do not think that the U.S. Average Adjusters could have made a

better choice. Our congratulations go to Tom DiStefano, who will be leaving office, and our very best wishes to Jean for what we know will be a distinguished year.

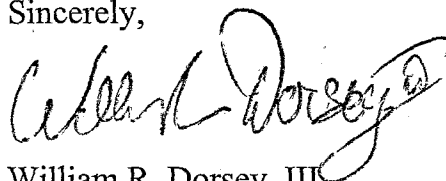
I am also pleased to advise you that Brad Stillman, who many of you know as one of the lawyers for RMS Titanic, Inc., and who has been active on our study group on Underwater Cultural Heritage, will be leaving private practice because he has been appointed a Magistrate Judge to the United States District Court for the Eastern District of Virginia. Our congratulations and best wishes go to Brad with the hope that he will continue to keep in contact with his Association.

I regret to report on the passing of past president James J. Higgins. At its Chicago meeting the Board unanimously passed a memorial resolution regarding Jim that will appear in the minutes of that meeting. Jim was a wonderful lawyer who was dedicated to our Association and its work. He was an inspiration to us all and will be long remembered for his wit and charm. We will miss him.

CONCLUSION

At this writing, I have been your President for only four months. As you can see from the length of this letter, that four months have been filled with much activity and many events. What has struck me during this busy time is something that I really knew all along, that the spirit of cooperation and helpfulness that exists among the members of the Association is without parallel. I continue to be amazed and impressed at how often busy lawyers are willing to set aside time to help me and the Association, and I am very grateful for it. We have a lot on our table, and will continue to have in the months to come. I look forward to working with you in the conduct of the affairs of this Association of which we are all so fond.

Sincerely,

A handwritten signature in dark ink, appearing to read "William R. Dorsey, III". The signature is fluid and cursive, with a large, stylized "D" and "W".

William R. Dorsey, III
President