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THE MARITIME LAW ASSOCIATION
OF THE UNITED STATES

FALL MEETING – NOVEMBER 13, 2010

PRESENT:

PATRICK J. BONNER
ROBERT G. CLYNE
HAROLD K. WATSON
WILLIAM ROBERT CONNOR, III
DAVID J. FARRELL, JR.

And the following 59 members and guests:

Julia Adams	Joshua S. Force
James A. Babst	Gerald A. Gallion
Phil Berns	Andrew Garger
F. Nash Bilisoly	Gene B. George
Sam Blatchley	Drew Gilbert
Forrest Booth	Alex Giles
Richard A. Branca	Francis J. Gonynor
W. Robins Brice	Donald C. Greenman
Phillip A. Buhler	Cancio Guillermo
Lizabeth L. Burrell	Charles F. Herd, Jr.
Francisco Carreira Pitti	Barbara Holland
Mark Coberly	Bradley A. Jackson
James Patrick Cooney	Brewster H. Jamieson
Daniel J. Cragg	David Jungman
Bob Cunningham	Lawrence Kiern
Christopher O. Davis	Sung Kim
William F. Dougherty	John D. Kimball
Kenneth G. Engerrand	Bruce A. King
Gary English	Sandra Knapp
Alan Folger	Hojin P. Lee

John Lenker
Richard M. Leslie
Keith Letourneau
Chris Mann
W. Brett Mason
Peter A. McLauchlan
Dennis Minichello
Robin Minturn
Jeff Moller
Jim Moseley
Jim Moseley, Jr.
Tom Muzyka
George Nowell
Robert C. (Rob) Oliver
W. Sean O'Neil
Michael Orlando
Michael B. Pemberton
Steve Poulin
Rand R. Pixa
Edward C. Radzik
Lisa Reeves
J. Ramon Rivera-Morales
C. Kent Roberts
Manolo Rodriguez-Bird
John M. Ryan
Robert J. Ryniker
Charles E. Schmidt
William Seele
R. M. (Mac) Sharpe
G. Byron Sims
Nathalie J. Soisson
Michael F. Sturley
Kevin J. Thornton
Arthur J. Volkle
David R. Walker
Kevin P. Walters
Cynthia Wegmann
Carrie Weitinger
William H. Whitaker

M. Hamilton Whitman, Jr.
Lauren Wilgus
Michael D. Williams
Andrew Wilson
James C. Winton
JoAnne Zawitoski
Marc A. Zlomek

TABLE OF CONTENTS

	Page
Reports of Officers	
Report of Secretary	15875
Report of Treasurer	15877
Report of Membership Secretary	15878
Recognition of Michael Sturley	15882
Reports of Standing Committees, Special Board Liaison Committees and Special Committees	
2011 Fall Meeting Arrangements	15883
Stevedores, Marine Terminals and Vessel Services	15885
Marine Torts and Casualties	15886
American Bar Association Relations	15887
Cruise Lines and Passenger Ships	15889
Fisheries	15891
Arbitration and ADR	15894
Carriage of Goods	15895
Inland Waters and Towing	15897
International Organizations, Conventions and Standards	15897
Marine Ecology and Maritime Criminal Law	15900
Regulation of Vessel Operations, Safety, Security and Navigation	15902
Marine Financing	15905
Marine Insurance and General Average	15907
Offshore Industries	15908
Practice and Procedure	15910
Salvage	15911
Young Lawyers	15912
In-House Counsel	15913
Advisory Committee on the Limitation of Liability Act	15914
Adjournment	15929
Minutes of the Meetings of the Board of Directors	
July 24, 2010	15930
November 12, 2010	15939

FALL GENERAL MEETING OF THE
MARITIME LAW ASSOCIATION
NOVEMBER 13, 2010
SOUTH TEXAS SCHOOL OF LAW
HOUSTON, TEXAS

MR. BONNER: Good morning ladies and gentlemen. I will call the meeting to order. First, I want to thank Dean Donald Guter for allowing us to meet at the South Texas School of Law. The facilities are excellent, this auditorium is set up perfectly and no one has any problem hearing me. I also want to thank all the members for coming out on a Saturday morning after being up late last night at the dinner.

I call upon Hal Watson for the Secretary's Report.

MR. WATSON: Thank you, Mr. President. Members, guests. Welcome.

Bob Cunningham, my former colleague, reminded me of a saying that you see on bumper stickers around here: "You might want to think about thanking your lucky stars that you're in Texas." The way that my fellow Houstonians on the Arrangements Committee have run this meeting and the way all of you have showed up and supported it make me very proud to be an adopted Texan.

Before I give my report, I'd like to go through a couple of house-keeping details. Please sign up. There are sign-in sheets in front of the doors. If you haven't signed up, please do that. We need to know who's here.

Secondly, if you're going to be making a report, please give the court reporter a card so that she has your name.

With regard to the court reporter, I want to thank Stratos Legal for providing a court reporter at no cost to the Association. In addition, Stratos was one of our sponsors for the meeting. Stratos has some promotional materials on the desk outside this room, and it would be a nice gesture of thanks for their service to the Association if you would use their services when appropriate.

The Board of Directors have met twice since the last general meeting in New York. We met in July in Portland, Oregon, at the offices of Schwabe Williams & Wyatt, and then we met again here, yesterday morning, at our offices of Locke, Lord, Bissell & Liddell.

At the meeting in July, President Bonner announced a change in the structure of the subcommittees of the Board. Previously, there were four subcommittees of the Board, Committees, Finance, Membership and Website. To a considerable extent, these subcommittees overlapped with the duties of the officers. For example, the Second Vice President has responsibility for ensuring that the committee chairs are posting agendas, etc. And, of course, the Treasurer has oversight of the finances of the Association. Accordingly, the former subcommittee structure did not necessarily address the issues that the Board has been focusing on.

The new subcommittee structure will consist of the Meetings Subcommittee, the Maritime Law Subcommittee, and the Membership Subcommittee. The Meetings Subcommittee will review and make recommendations regarding our meetings and how to make them better. The Maritime Law Subcommittee will have oversight over whether the Association is meeting its key function, which is to promote improvement and uniformity in the maritime law. The Membership Subcommittee will have oversight over issues relating to membership and the service we provide to our members.

The Board has also dealt with two substantive issues. First, as we discussed at the General Meeting in May, there has been some question of whether the Rotterdam Rules should be adopted by the United States as a self-executing treaty, which would require only ratification by the Senate, or whether the Rules should be incorporated by domestic legislation, as was done in 1936 with the adoption of the Carriage of Goods by Sea Act to implement the Hague Rules. As Mr. Radzik reported in May, the Carriage of Goods Committee believed that the Rotterdam Rules were sufficiently clear to be self-executing. At the July meeting, the Board passed a resolution that it was the position of the MLA that the Rules should be adopted by ratification of the treaty, and authorizing President Bonner to urge the Senate provide its advice and consent in this regard.

The second issue that has involved a great deal of the Board's attention has been the various pieces of proposed legislation that have arisen out of the blowout of the Maconda well in the Gulf of Mexico. This will be the subject of discussion and a vote later.

Mr. President, that concludes my report, and I move its adoption.

MR. BONNER: Is there a second?

AUDIENCE: Second.

MR. BONNER: All in favor?

AUDIENCE: Aye.

MR. BONNER: One thing I must add to Hal's report: We're going to be sending out a new MLA Report, and we have two new editors. They're very old friends of ours. Chet Hooper and David Nourse took it upon themselves, after some prodding, to be the editors and you'll be very proud of the edition that you're going to be receiving. It lives up to our standards, and I thank Chet and David for that. Treasurer's Report.

MR. CONNOR: Thank you, Mr. President, good morning. I'm happy to report that we are in sound financial shape.

Currently, we have on hand in cash or in government investment funds, assuming the government is still here, \$466,000. We do have some outstanding bills that we're expecting, in the sense of \$40,000, to print the directory, and the balance of the payments to pay off this meeting.

I should add that the Texas Planning Committee, and particularly Brad Jackson, did a wonderful job raising money from the local firms to support this meeting, and it was just fabulous what we were able to do and give us this fabulous time. So that is included in there.

The one bad part is dues collection. We do have a number of delinquent accounts, totaling almost \$100,000 in back dues. As you know,

the last two years we've been sending due's statements out by e-mail the first time, and then we follow it up with a snail-mail invoice in about 60 days.

This year we're going to start a little earlier. The initial dues statements will go out mid January with follow up beginning of March. So for those of you who use BlackBerrys and you see your dues statement arrive by email, open the attachment at the office, and print it, or you will forget about it in "old mail." Please think twice about that because I've heard a lot of people say that's what happens, but expect your dues statement some time mid January.

And that is about all I have to say, Mr. President. This concludes my report.

MR. BONNER: Is there a second for adopting the Treasurer's Report?

AUDIENCE: Second.

MR. BONNER: All in favor?

AUDIENCE: Aye.

MR. BONNER: The Membership Report.

MR. FARRELL: Thank you. I'm pleased to report that following the unanimous recommendation of the Committee on Proctor Admissions, yesterday the Board of Directors elected ten new Proctors. They are:

Admiral Bill Baumgartner;
Conti Cicala of San Francisco;
Vincent F. Corteselli of New York;
Lewis E. Henderson of Sugar Land;
Patrick F. Lennon of Southport, Connecticut;
John H. Musser of New Orleans;
Andrew B. Saunders of Boston;
Christina K. Schovajsa of Houston;

Jonathan W. Thames of Walnut Creek, California; and
Michael D. Williams of Houston.

As well, the Board elected one Academic member, 38 Law Student members, about 20 of whom I'm pleased to say attended our activities this week in Houston; and five non-lawyer members. They are:

Fiona Dhurjon-Sing of New York;
Austin L. Dooley, Ph.D. of City Island, New York;
Edward C. Fluerton of New York;
Gavin O'Hare of Annapolis; and
Ghulam M. Suhrawardi of New Jersey.

I'm also pleased to report that we had a very impressive increase in Associate lawyer membership since the New York meeting, with 70 new applicants, 30 of whom hail from Louisiana and Texas. And I was so pleased by everybody's efforts in increasing these numbers that yesterday I went out and bought myself a pair of beautiful, ostrich/quill cowboy boots.

I regret, though, to advise that there have been nine deaths:

George W. Ashford, Jr., of Kailua, Hawaii;
Thomas A. Clure of Duluth, Minnesota;
Peter H. Ghee of New York;
Paul D. Hardy of Clearwater;
Dennis J. Lindsay of Portland;
Professor Jo Desha Lucas of Chicago;
Norman A. Peloquin, II of Providence;
The Honorable Phillip C. Wilkins of Sacramento; and
Professor Gabriel Wilner of Athens, Georgia.

Could you please rise for a moment of silence in their memory.

(Moment of silence)

That brings our total membership to 3,137.

As a final note, I ask you to please continue getting the application forms off of the website and sending them, as well as your Proctor letters in support, all to me by e-mail so that we can continue to attract vibrant new members.

That concludes my report and I move its adoption.

MR. BONNER: Is there a second?

AUDIENCE: Second.

MR. BONNER: All in favor?

AUDIENCE: Aye.

MR. BONNER: One of the longstanding traditions of the MLA is that after you have paid dues for 40 years you become a life member and you no longer have to pay dues.

Well, we're not letting go of you, and what we have started to do is to send out requests to the 40-year members asking them for contributions. I'd like to recognize two 40-year members who have contributed to the Maritime Law Association. That's George Roundtree of Wilmington, North Carolina, and Edward Commerford of Poway, California

Our plan is to set up a fund with these contributions and to use it for something. It could be educational. Maybe we can have a party with it but we don't know. We're waiting for our 40-year members to put up the money and let them decide. Maybe we'll go out to the Armadillo Palace next time.

I'd like to recognize an old friend who has returned back to our meeting, Captain Steve Poulin. He's our U.S. Coast Guard contact. He's the Chief Officer of Maritime and International Law. He's an old, old friend.

When there was an initiative about whether Coast Guard reports should be admissible into evidence or inadmissible, Steve and I worked

together and eventually Congress passed something that probably nobody likes. So if you have any questions about that, talk to Steve. Don't talk to me.

I'd also like to recognize Judge Gray Miller. He was very much involved in the planning of this meeting and he had some early meetings in his chambers, and I think he's one of the ones that we should thank because this meeting has been so successful.

I'd like to also recognize all the people on the Committee who did a fabulous job. Mike Bell could not be here, but Mike has really worked very hard on this. The other people on the Planning Committee were Julie Adams, Pat Cooney and Brad Jackson. They were the ones overall in charge.

On the House of Blues event were Ivan Rodriguez, Erik Garza, and Kevin Walters. For the museum, it was Jill Schaar, Andy Durham and Ed Patterson, III.

And for the Plaza Club dinner last night were Jim Winton, Peter McLaughlan and Michael Orlando. They all deserve our thanks.

Also deserving of our thanks are all the Houston firms and others who contributed a lot of money so we could go to these great cocktail parties, and I'm going to read their names because I think they deserve to be recognized: Baker & Hostetler; Bell Ryniker & Letourneau; Brown Sims; Chaffe McCall; Eastham Watson; ExxonMobil Refining; Exxon-Mobil Risk Management; Fitzhugh & Elliott; Fowler Rodriguez; Fulbright & Jaworski; Galloway Johnson; Gardere Wynne; Hill Rivkins; Mathew Ammerman; Locke Lord; Meyer Orlando; National Maritime Services, Phelps Dunbar; Royston Rayzor; Schechter McElwee; SEA Limited; Seariver Maritime, Inc.; Sedgwick Detert, Moran & Arnold; Spagnoletti & Co.; Strasburger & Price; Stratos Legal; Sutherland Asbill; The Bale Law Firm; Westmoreland Hall; Wheat Opperman, and White MacKillop.

Did I leave anybody out? Thank you very much. We appreciate it.

Brad Jackson has another party planned for us this afternoon, if you can believe it. It's at Goode's Armadillo Palace at 5015 Kirby Drive. It says it's an "Old West Saloon with ice cold beer, smooth whiskey, Texas music and good food." So we're all invited out there. Maybe they'll have a football game on the TV. You think so? So please come.

Probably one of the Association's biggest successes over the past 20 or so years has been our involvement in the Rotterdam Rules. In May we recognized two of the three people who were really behind it, Chet Hooper and Vince DeOrchis. Unfortunately Mike Sturley was unable to make it to our May meeting, but we promised that we wouldn't forget him and we would recognize his contribution in Houston. I have a certificate that I'd like to read to you. It's to Michael Sturley:

In appreciation for the services of Michael Sturley, Vincent DeOrchis and Chester Hooper. Whereas Michael S. Sturley, Vincent DeOrchis and Chester Hooper, affectionately known to their fellow members as the Gang of Three, have worked tirelessly for most of a decade as part of the working group set up by UNCITRAL to negotiate the new International Convention relating to the Carriage of Goods by Sea; and

Whereas working with the United States Department of State, the Gang of Three have represented the interests of the Association, the Maritime bar, the shipping and commercial interests represented by members of the Association and their country with zeal, industry and wisdom; and

And whereas, the time and effort expended has involved extensive time and travel at the expense of their normal duties and personal lives; and

Whereas, due in large part to their efforts, the Convention on Contracts for the International Carriage of Goods, Wholly or Partly by Sea, otherwise known as the Rotterdam Rules was eventually signed by the United States; and

Whereas, at the meeting held on May 1st, 2009, the Association recommended that the U.S. Senate ratify the Rotterdam Rules; and

Whereas, the services of Messrs. DeOrchis, Hooper and Sturley have exemplified the highest standard of pro bono publico service and have furthered the objectives of the Association in furthering the improvement and uniformity of the maritime law in furthering the improvement and the uniform of maritime law;

Be it resolved that the Maritime Law Association of the United States expresses its sincere appreciation to Michael F. Sturley, Vincent DeOrchis and Chester Hooper for their distinguished service, and be it further resolved that this resolution be made part of a permanent record of the Association.

It's dated May 7, 2010, and I would like to present that to Michael. If you would come up. I think it's very good for the Association that now we have one of the world renowned experts on the Rotterdam Rules and it's Michael. Michael, thank you for all of your work over the years.

One of the prerogatives of the President is to set the agenda. I get to call which committee goes first. And now, this is a personal thing of mine, but I'm going to call on JoAnne Zawitoski. JoAnne, would you come up, and the reason I'm saying this is I get to take off the hat and put on the lei.

MS. ZAWITOSKI: Mr. President, our officers and Board, distinguished guests, ladies and gentlemen, aloha again. Your Oahu Planning and Arrangements Committee has been very, very hard at work planning the next fall meeting of the MLA, which is going to be held at the five star J.W. Marriott Resort & Spa at Ko Olina on Oahu from December 2nd to December 6, 2011 to coincide to the 70th Anniversary of Pearl Harbor. Our meeting will be held jointly with the Australian and New Zealand Maritime Law Associations and will feature a day and a half of CLE.

The hotel is a fabulous destination resort on the southwestern coast of Oahu. If you haven't seen the hotel brochures, which were on your dinner table last night, we have some extra ones sitting on the table outside this room. You can all see the great place where we are going to be staying.

This hotel has its own private beach right on the ocean. Many of the hotel's rooms are ocean front or ocean view, with balconies, and they can sell for as much as \$600-\$700 per night. However, your committee has secured rooms for the terrific price of only \$239 per night.

So I submit to you, ladies and gentlemen, this is an offer you cannot refuse. If you ever wanted to go to Hawaii or go back to Hawaii, this is your golden opportunity.

There are no resort fees at this hotel. If you have children that are age eighteen or under, they can stay in your room for free. We're going to have discounted parking and Wi-Fi, and the hotel also offers a world-class spa and golf.

We are also working on some pre and post-meeting packages on the islands of Kauai, Maui and the Big Island. Some sporting events will be held on a Friday, but the main part of the meeting will start on a Saturday. The meeting will essentially run from Saturday to Wednesday, but we're going to have some pre and post-meeting packages to offer you, so if you want to make a little vacation out of this trip and come a few days early or stay a few days afterward, we'll have that available for you.

We're also trying to lower the registration fee in 2011 to make the meeting more affordable. We're going to offer a special registration fee once again for the younger lawyers to make it affordable for them to attend.

We are planning to put a link up on the MLA's website for this event, which will have a link to the hotel, and you'll be able to begin registering for the hotel rooms in early 2011. And the entire registration package we hope to have out to you, again by e-mail, no later than February, 2011.

This is a very select hotel. It only has about 330 or so rooms. So we expect we're going to sell out our room block, and we encourage you, if you really want to attend, to get your reservations in early. I'm looking forward to a wonderful meeting on beautiful Oahu, and I hope to see you all there.

Thank you, Mr. President.

MR. BONNER: There's a story that's part of the folklore of the Maritime Law Association. I don't know if it's true or not, but I heard it both from the U.S. MLA and somebody who's in the Australian MLA.

The last time we met together, I guess it was in Maui, there was a challenge made in the bar at about 1:00 o'clock in the morning to play a water polo game the following morning at 6:00 o'clock. Somebody happened to wake up and open up their blinds, and he saw all these crazy Australians in the pool at 6:00 o'clock waiting for the Americans. Nobody showed up. Obviously, the Australians stayed up all night.

I've been in contact with Sarah Derrington, and she mentioned something about having an outrigger race. I said no, we're very big in lacrosse. We're still working that out, what we do.

Stevedores – Nash Bilisoly.

MR. BILISOLY: I do want to say that David Farrell has got his boots on right now. They are sweet boots.

We had our meeting at Royston Rayzor and I want to thank Pat Cooney. He and his partners were gracious hosts to us. We started off with our President, Pat Bonner, who came and spoke, in general, and there was a lot of discussion about the limitation of liability issue that's going to be voted on, the issue that's going to be voted on a little while.

We discussed, as we always do, the recent developments in the Longshore Act. Most of that discussion, as it has over the last three years, has revolved around the Medicare Set Aside Program, and the delay in services that is taking place because of the need to have Social Security improve those.

JoAnne Zawitoski commented on the recent developments in the marine terminals area. David Loh gave a written report on freight forwarding and Deborah Waters spoke.

We also had a long discussion from the plaintiffs' perspective about the Deepwater Horizon litigation that's going on. That was very interesting, especially in light of the limitation of liability issue that was being discussed.

And with that, that is our report.

MR. BONNER: Thank you very much.

Marine Torts, Lisa, to be followed by Dick Leslie, ABA.

MS. REEVES: Good morning, everyone. We held a very excellent joint meeting with Offshore Industries yesterday afternoon from 3:00 to 5:00 and despite the late hour at the end of a long week, we had a great turnout.

I think we had about 75 or 80 people present, plus a number of people present by telephone, including one of our presenters. I'm going to let the Offshore Industries chair, Brad Jackson tell you about that meeting so that I can give you a quick update on what on what our committee did over the course of the summer.

As you all know, the first bill attacking the Limitation of Liability Act, and bringing drastic changes to the Jones Act and DOSHA, was introduced into the House in early June. Our committee immediately began monitoring these events and all of the different pieces of legislation that came thereafter. The House staffers let us know that this bill was moving at break neck speed and, in fact, it passed the House in about three weeks, which was amazing to me.

So we immediately went to work. We solicited the views of all of the committee members and compiled those views for the Board of Directors. We also received views from a lot of interested members of the MLA, and outside the MLA, who wanted to weigh in, but were not on our committee. We did compile those, as well, although we told all of the non-MLA members that it was difficult to give their views a lot of weight because they weren't members of the organization. I suspect that may be part of the reason we had such a great increase in Associate memberships since May. In any event, we tried to give everybody a

voice, and despite some website challenges, we also held a vote on various different provisions, with special emphasis on limitation of liability because that was the focus of our committee's concern. All of this took place in the summer within a month of introducing the first bill and it led to resolutions on the position that our committee felt that the MLA should take, as well as the minority view from the committee.

I really feel that this is exactly the kind of work that our committees are supposed to be doing, that the MLA should be involved in. I want to thank everyone from our committee and those that weren't on the committee that gave me feedback and comments.

It was a huge amount of work. It was a lot to digest in a very short period of time, and the members of the committee just did a fantastic job. Particularly, I'd like to thank Vince Foley, Larry Kiern and Paul Hoffman, who did a tremendous amount of work on this, as well as our President, Pat Bonner, who gave me a lot of guidance.

That is my report. Thank you.

MR. BONNER: This whole thing came up right in the middle of vacation season, and Lisa dropped everything and she spent a lot of hours on this. She was calling me from Cape May on vacation but she wasn't on vacation. Lisa was tabulating votes and dealing with e-mails and that's what the MLA is about, and Lisa personifies it. This was her committee's bailiwick. She jumped up and she led us and we really got the feedback from the Association, and I think she deserves a lot of thanks.

Dick Leslie of ABA followed by Sean O'Neil.

MR. LESLIE: Thank you, Mr. President. Good morning, ladies and gentlemen. I am your representative for the Maritime Law Association to the ABA House of Delegates, and therefore the Chair of our ABA Relations Committee.

What we did in February, 2010 in the House of Delegates was to pass, without dissent, the MLA's resolution that the United States Sen-

ate ratify the Rotterdam Rules treaty. I was very pleased that we could accomplish that. It shows why it is good to have our ABA relationship. It allows us to say that we are the group that knows the most about admiralty and maritime affairs, and that we can influence the entire ABA, some 450,000 members, to support our positions in these areas of our expertise. With the proposed legislation, particularly in light of the BP oil spill, I think we will be coming back to the ABA to seek their support and advance our positions. It is nice for us to be able to do so, efficiently and quickly.

The August, 2010 meeting this past Summer did not have any matters of particular importance to the MLA. There were many items in the House of Delegates discussed that trial lawyers would find interesting, but nothing to take up your time with today.

I do want to tell you about one story concerning the award of the ABA's highest honor to an outstanding lawyer at the August meeting. For background, we have to go back to my law school days when I was fortunate to receive a clerking position in New York City, at what was then a medium sized firm, 27 lawyers, and today that same firm is a large one, with over 1,400 lawyers. I met there a woman who had just graduated number one in her class at Columbia Law School, but couldn't seem to receive a job offer. Finally, she was hired by a federal district court judge. To show you the kind of person she was, she immediately set about the task of reading every single thing he had written in all his cases in his 7 years on the Bench. Her husband worked as an associate at the firm I was clerking with, so I got to know her quite well. I finally got up the nerve to ask her why her job quest had been so difficult. She told me very candidly. She said that she was a woman, married, the mother of a daughter, and Jewish: four strikes against her. I just didn't understand how law firms could reject an outstanding graduate on those grounds. Of course, this story has a happy ending, because the recipient of the ABA's highest honor in August was none other than Ruth Bader Ginsburg. We see how far we have come in my lifetime in recognizing talent and avoiding discrimination. Ruth was on the cover of last month's ABA Journal in a wonderful photo of her from that time in 1959, holding her beautiful, blonde haired daughter, who looked in that photo so much like

her husband and my friend, Marty Ginsburg. Thank you for letting me take a little of your time with this remembrance. That ends my report.

MR. BONNER: Thank you very much. Cruise Ships to be followed by Fisheries. Kevin Thornton.

MR. O'NEIL: Mr. President, members, and guests, the Cruise Lines and Passenger Ships Committee held its meeting on Friday, November 13th, at 10:00 a.m. at the local office of the Fowler Rodriguez firm. Sixteen members and guests were in attendance in person with an additional ten members attending via teleconference. Unfortunately, due to a last minute work conflict, our chair, Bob Peltz of Miami, was unable to attend in person but was able to help lead the meeting over the telephone.

We provided an update on the status of pending legislation affecting the cruise industry, in particular the Cruise Vessel Security and Safety Act of 2010 which became law on July 27, 2010. Bob Peltz highlighted some of the more important parts of the Act, many of which deal directly with prevention and investigation of crimes of sexual assault and which are set to come into effect in about 14½ months. The Act itself delineates passenger vessel security and safety requirements concerning vessel design, equipment, construction, and retrofitting which includes ships rails being raised to at least 42 inches, peepholes being installed in all passenger and crew cabins to allow for visual identification, and all new builds having time sensitive key entries with security locks. The Act mandates the use of video surveillance to monitor crime; passenger access to a security guide with a posting of U.S. embassy locations for foreign ports of call and a requirement for log book entry and reporting of deaths, missing individuals, thefts, and other crimes. In regard to sexual assault provisions, the Act mandates maintenance of equipment, medications, and medical personnel for sexual assaults on board, confidentiality of sexual assault information, restrictions on crew access to passenger staterooms, and directs the Secretary of the department in which the Coast Guard is operating to develop minimum training standards for the certification of passenger vessel security personnel, crew members, and law enforcement officials on methods for the prevention, detection, evidence preservation, and reporting of criminal activities in

the international maritime environment. This is essentially a CSI-type investigator and the Act prohibits a vessel carrying U.S. citizens from entering a U.S. port unless there is at least one crew member on board who has met such training and certification requirements. In connection with the medical personnel onboard, the Act mandates a shipboard doctor or nurse to meet the guidelines established by the American College of Emergency Room Physicians relating to the care and treatment of victims of sexual assault. In regard to these requirements, Bob commented on the issue regarding vicarious liability for shipboard medical personnel. The Act itself has been posted on the Cruise Committee's webpage for any of you who want to review the provisions yourself. Bob then discussed changes to the penalty wage statute and the impact it may have on cruise line crew.

The committee then had a presentation on the MLA's response to pending legislation regarding the Fairness in Admiralty Act in advance of today's general meeting. The committee members provided good input on the issue with various viewpoints.

We then had an update from Michael Eriksen of the Eriksen Law Firm of West Palm Beach, Florida regarding a case he has been litigating in the Florida state court system for a number of years concerning the validity of a forum selection clause in a passenger ticket requiring the passenger to bring their claim in federal court. The Florida Third District Court of Appeal, in a recent en banc decision, decided in favor of the cruise line that a passenger was required to bring their suit in the federal court on the admiralty side. The court of appeal certified the question to the Florida Supreme Court; however, the Florida Supreme Court declined the certified question. The case now may be presented to Supreme Court on a cert petition. You may recall I commented on this case at the May meeting, and its potential impact in connection with savings to suitors claim in state court and the issue of a jury trial. All I can say is stay tuned!

We then discussed the joint MLA/U.S. Coast Guard Forum and opened the floor to any topics which might be of interest. One issue which came up is the contradiction between the instructions contained on the Coast Guard's personal injury and death incident report (the CG-

2692 form) and 46 U.S.C. § 6101 regarding the reporting requirements of incidents and the territorial jurisdictions applying to each.

Finally, the committee took up the very recent topic of the CAR-NIVAL SPLENDOR and had a very rousing and entertaining discussion regarding the incident and potential claims.

Mr. President that concludes my report.

MR. BONNER: Thank you very much. Fisheries to be followed by Arbitration.

MR. THORNTON: Good morning, Mr. President, Board members, officers, members and special guests.

The Fisheries Committee met on Thursday, November 11, between 10:00 a.m. and noon at the offices of Baker Hostetler. I thank Jim Winton and the Baker Hostetler firm for their gracious hospitality.

We were pleasantly surprised to have some special guests attend the Fisheries Committee meeting. President Pat Bonner, David Farrell, and Sandra Knapp joined us. Sandy told the committee about the MLA's upcoming Hawaii trip. This is my twentieth year in the MLA. I have earned the respect, admiration, and no small measure of jealousy of my partners because of the spectacular venues we visit for the MLA Fall meetings. I took several of the MLA Hawaii meeting brochures from Sandy because I am betting that not just a few of my partners will seek to join the MLA just so they can make the Hawaii trip this year.

Traditionally, the Fisheries Committee has had a lot of interaction with the U.S. Coast Guard, as have our members and clients, and we are expecting that we will have more interaction in the future because of some changes in recent legislation involving inspections of commercial fishing vessels under 79 feet in length. Accordingly, we were pleased to have three U.S. Coast Guard Officers attend the meeting as guests. They were Lt. Kelley Tiffany, Lt. Brooke Grant, and Lt. Jeremy Greenwood.

For the Fisheries Committee, we had a tremendous turnout. We had 13 people in person and 8 participated by conference call. At the beginning of the meeting, I took the opportunity to ask everyone to spend a few minutes to tell us who they were, where they were from, and to give a brief statement of what type of maritime work they routinely do. I wanted to do that because we had a lot of new people and also I think that, as members who have been involved in the MLA for a long time, we may sometimes forget what a tremendous opportunity it is to get to know the people that are on our committees as well as new members and guests that may be stopping by and to share information with one another. Getting to know people in the MLA generally and especially on the committees is important because it builds relationships and can serve as a valuable resource for all sorts of information and for recommendations too, such as for expert witnesses, background information on judges, adverse parties, and adversaries. In the twenty years that I have been an MLA member, I never had anyone refuse a request for advice or a recommendation, even something as non-substantive as my request for a suggestion as to a comfortable hotel and good restaurant in a city with which I was not familiar. Taking just a little bit of time to share information was really helpful and fun and everyone got a sense of who was participating in the meeting. I also wanted to encourage the younger people in particular to seize the opportunity and to get to know one another and take advantage of their membership and participation in the MLA.

We were blessed to have three great speakers. First, we had Rick Marks, who is a non-lawyer principal in the Hoffman Silver, et al law firm from Washington, D.C. and Alaska. Rick serves as a federal advocate for the commercial fishing industry. Rick gave a presentation dealing with various accomplishments enjoyed this year including the last minute extension of the oil pollution discharge permit exemption for small vessels. That moratorium will remain in place for three years and will expire on December 20, 2013.

Rick also spoke at length, and I won't get into it, about his efforts on behalf of the commercial fisheries industries and others, relating to the changes in the Jones Act. He also talked about the U.S. Coast Guard Vessel Inspection, which is going to have a substantial impact on

the commercial fishing industries on the East Coast and in the Gulf. I believe these changes for better inspections, training and safety will be positive developments. Finally, Rick shared his view on what actions Congress might take in the next term that might impact the commercial fishing industry.

Our second guest speaker was Gregory DiDomenico. Greg is the Executive Director for the Garden State Seafood Association in New Jersey. Greg addressed NOAA's proposed amended policy for sanctions applicable to the commercial fishing industry. He also addressed how the Secretary of Commerce Gary Locke appointed the Inspector General to investigate the irregularities and prosecutions and disproportionately large penalties particularly affecting the Mid-Atlantic and New England fisheries. Finally, Greg also spoke about the Pioneer Program, which is a scientific research project that will install fixed moorings in the Atlantic Ocean, south of Cape Cod. We are trying to establish protocol for reporting of damages and address issues of compensation for damages caused by interactions between fishing gear, fishing vessels, and the fixed moorings.

Our third speaker was, Stephen Ouellette, Esquire, from Gloucester, Massachusetts. Steve is a Fisheries Committee member. Steve contributed some thoughts as to particular instances of enforcement irregularities and extraordinarily high penalties imposed on commercial fishermen by NOAA. Steve also addressed the catch share debate.

Finally, we had an oral report by David Smith, Esquire, from Gloucester, Massachusetts. Dave is a Fisheries Committee member and he prepared the Fishery Case Briefs which addressed recent court cases dealing with or of interest to the commercial fishing industry.

I am reserving a portion of my time for Bruce King, Esquire, of Seattle, Washington. Bruce is a member of the Fisheries Committee and he will provide a brief statement and update on one of the Fisheries Committee's long-term projects that recently bore fruit.

That concludes my presentation.

MR. BONNER: Thank you very much.

MR. KING: Thank you, Mr. President. One of the Fisheries Committee's projects came to fruition in the recent Coast Guard Authorization Act. I have been asked to report briefly on that.

The American Fisheries Act, which was enacted in 1998, included a provision to the effect that a large fishing industry vessel would lose its right to a fishery endorsement if the vessel's fishery endorsement on its Certificate of Documentation was invalid for more than fifteen days. This applied to vessels that measured more than 165 feet in registered length or more than 1900 registered tons (750 gross registered tons (convention tonnage)), or that delivered more than 3000 shaft horsepower. Unfortunately, when such a ship is in a shipyard having hot work done that results in a modification of its gross tonnage, a long shipyard project could result in its Certificate of Documentation becoming invalid for longer than fifteen days. This would result in a costly loss of the vessel's fishing privileges.

It was one of the Fisheries Committee's projects to suggest legislation to repeal this provision, which the recent Coast Guard Authorization Act did. Such a vessel will still permanently lose its fishing privileges if it is reflagged foreign, under 46 U.S.C. §12113(d)(2)(A)(ii).

MR. BONNER: Thank you.

MR. RYNIKER: Good morning, Mr. President, members of the Board, ladies and gentlemen. On Thursday at noon we had a very well-attended Arbitration ADA meeting at Phelps Dunbar and we thank them for their hospitality. We had a video conference linked with New York. Sandra Gluck chaired the New York meeting, and we had a number of call-ins. Here we had about 30 attendees, and in New York, I think, probably another 25. And I guess we had close to ten call-in. So it was very well attended, even at that meeting, which usually draws a good crowd. We had some presentations on the Houston end and then some presentations on the New York end, and a lot of questions back and forth. It was a very lively meeting.

We started off with a presentation by Bill Seele on Houston arbitration and the Houston Maritime Arbitrators Association. We had a second presentation on mediation in Texas, and more specifically maritime cases. That, as many of you know, is a major thing here in Houston and in Texas, generally.

We then had a very interesting presentation from New York on the status of Rule B after the *Jahldi* case, which I'm sure everyone knows ended EFT attachments. Interestingly, Rule B is alive and well in some different forms. What was very interesting is how the New York lawyers are now looking into New York State law and new remedies are developing there.

The next thing we had was a presentation and a paper by Peter Skoufalos, a New York lawyer, on arbitrators' power to grant interim remedies, and the enforcement of arbitrators' orders providing such relief. It's a very interesting paper available I believe on the website.

The last thing we had which fit very neatly into this was a presentation from an arbitrator's standpoint, Dave Martowski, whom I'm sure is known to most of you. The arbitrator's view covered the ordering of the posting of interim security, which is a pretty hot topic today, since the Rule B EFT remedy is basically no longer available. The question today is how do you obtain security in aid of arbitration? Of course, the Arbitration Act. But how about beyond the Act itself? I commend this to you. I think David Martowski's notes will be or have been posted already. I commend to you to read that. It's pretty interesting.

And with that, I conclude my report.

MR. BONNER: Thank you very much, Bob. To hear you speak, it reminds me of home.

MR. RADZIK: Good morning, Mr. President, officers and directors of the Association, members and guests. The Carriage of Goods Committee met on Thursday at the offices of Cohen, Gorman & Putnam here in Houston, and our thanks go out to our hosts, including Mark Cohen and Ruth Colvin, for their hospitality. There were about 35 who

attended the meeting in person, and we also had a number of members who could not make it to Houston participating by phone. It was a lively discussion about the two main items on the agenda, and those were the present status of the Rotterdam Rules, where they are and where they're going. And the second item was the work of the subcommittee that was formed in the summer, parallel to the committee that Lisa Reeves spoke about. And this was to study the potential ramifications on cargo as to the proposed legislation to repeal the Limitation of Liability Act.

Chet Hooper, who could not attend, provided a report on the present status of the Rotterdam Rules. He indicated that the Rules are in the stage of the preparation of the transmittal package in the State Department, which will go to the higher levels and eventually to the Secretary of State. The State Department has done an item-by-item analysis of each provision of the Rotterdam Rules and recommendations and a proposed cover letter that will be eventually presented to the President of the United States, which will then go onto the Senate for their advice and consent. Under this process the Senate has to approve the Rules by a vote of two thirds. It's expected that the transmittal package will go out to the Secretary of State by the end of this year and the review by the President and submission to the Senate will occur during the first quarter of 2011.

Our committee will form a subcommittee on legislation needed, in the event that the Rules are enacted as a self executing treaty without the need for enabling legislation. The subcommittee will draft proposed legislation for the repeal and/or modification of existing law such as COGSA, the Harter Act and Pomerene Act.

We also had a lively debate regarding the repeal of the U.S. Limitation Act and the outcome of our subcommittee, whose members form an additional committee that made a recommendation for proposed alternative legislation with regard to the Limitation of Liability Act.

Finally, Mike Ryan, as always, has been faithful in maintaining a newsletter, copies of which are available on the desk outside, and we will post the newsletter on the MLA site.

That concludes my report.

MR. BONNER: Thank you very much. Inland Waters to be followed by International Organizations.

MR. ROBERTS: Thank you, Mr. President. The Inland Waters and Towing Committee members met on Friday. We had a great report by Gene George. Have you seen an Asian carp? They're a wonderful fish, but they're taking over.

Gene reported on pending litigation in Chicago that could result in the closing of the Chicago River, a great impact on American maritime commerce. The issue in the litigation is efforts to stop the Asian carp from making it to the Great Lakes. There's a ruling coming out in December.

Dave Farrell and Rand Pixa from MARAD reported on MARAD developments in its America's Marine Highway Program and some of the funding initiatives coming out over the next few years.

We discussed congressional initiatives on limitation of liability. The towing industry is at the cross hairs of limitation of liability legislation. We don't know whether the legislation is dead or not, though others in Washington have reported its demise.

There was discussion of the soon to be issued towing industry vessel inspection regulations. The long awaited regulation is coming out this spring; issuance of the regulation was specifically ordered in the Coast Guard Reauthorization Act of 2010.

That concludes my report.

MR. BONNER: Thank you very much, Kent.

MR. BUHLER: Mr. President. Members of the Board, members of the Association. The International Organizations, Conventions and Standards Committee met on Friday, November 12th at the offices of Baker Hostetler, and we thank them for their hospitality in hosting that meeting. Thirty-one persons attended, including three by telephone.

We first received a report from John Kimball concerning the 2010 CMI meeting held in Buenos Aires. Topics addressed included a discussion of piracy and updates led by Patrick Griggs. The legal regime in the arctic was a topic discussed with emphasis on coordination of nations with arctic jurisdictions and interests. It was also announced that CMI is developing a Young Lawyers' Program to encourage new membership. The next meeting of the CMI will be held October 14-19, 2012 in Beijing.

Dovetailing into this, we received a report from Professor Michael Sturley on the status and update on the Rotterdam Rules. Professor Sturley reported that there was a large turnout and very extensive discussion concerning the effective date of the Rotterdam Rules. He reported on the Montevideo Declaration, which is a Latin American response to Rotterdam, although I believe the draft was put together by some European delegates. Professor Sturley also reported on the status of U.S. ratification of the Rotterdam Rules and the long bureaucratic process involved. He thinks that due to support from the State Department the process could go to the White House maybe in early 2011 and there will be other agency review. With regard to ratifications of the Rotterdam Rules by other countries it was reported that Spain is in the lead, having submitted the matter to Parliament. Denmark is expected to follow but it is coordinating with other Nordic countries which are at varying stages in the process. It is believed a number of countries are waiting to see if the U.S. will ratify the Rotterdam Rules. China indicated in the past that they prefer this to Hague and Hamburg, and so its ratification may be delayed.

We were next privileged to receive a report from Capt. Steve Poulin, who is the new Chief of the Office of Maritime and International Law at the Coast Guard. Capt. Poulin discussed developments at the IMO. It was announced that there will be a change of leadership of the IMO. The Secretary General is stepping down and there is an American from the Coast Guard, Jeff Landis, who possibly may become the first U.S. Secretary General of the IMO. Apparently he does have some competition for that position.

Capt. Poulin reported on discussions of the Hazardous and Noxious Substances convention. The U.S. is not a party. There are issues regarding definitions of hazardous substances, as the convention adopts the definition contained in other IMO Conventions, and that is a stumbling block for the U.S. in ratification of that convention.

Capt. Poulin also reported on consideration of the increase in limits in the Limitation of Liability Convention of 1976. Proposed increases have been submitted by the Australian delegation. They were unable to obtain co-sponsors at this point and so it is expected that the liability limits will not be raised at this time although the U.S. could support that at some time in the future.

There was also news concerning the proposed new convention on Liability and Compensation for Offshore Installations in the event of cross-border pollution damage, which was proposed in the wake of recent events in the Gulf. This proposal came from Indonesia. There are no co-sponsors to date, but this proposal, if put into effect, would create a liability system to mandate an international fund for cross-border pollution damage.

Capt. Poulin also reported on the IMO discussion of guidelines for fair treatment of seafarers during investigation of pollution and other matters.

Finally, he reported on recent proposals for at least five options to try pirates. These include encouraging involved states to set up tribunals; create an international tribunal for the trial of pirates; create an international chamber in a national jurisdiction; create an international chamber under U.N. auspices; and regional tribunals. The U.S. prefers the first alternative, which is to try to encourage involved states to individually set up tribunals to try pirates. We also discussed several recent U.S. cases that apply varying standards for the interpretation of the U.S. piracy statute and the definition of piracy. Some are troubling, particularly two cases out of the Eastern District of Virginia that took very different views of the breadth of the definition of piracy.

Chairman Alan Van Praag was unable to attend our meeting due to a very serious illness of his wife, and I am pleased to report that she is doing fine and well on the road to recovery, so we were all happy to learn that.

Mr. President, that concludes my report.

MR. BONNER: Thank you very much.

I intentionally did not set up the next committee because I wanted to make a point: In many organizations there are turf battles where one committee grabs an issue and says this is ours. Everybody else stay out. We are very lucky in the MLA that we have a number of our committees that work very closely together, and these next two committees exemplify that. They are Marine Ecology and Regulations of Vessel Operations. So if you guys could be next, I'd appreciate it.

MR. MINICHELLO: Mr. President, officers and fellow members and guests, the Marine Ecology, the Regulation & Vessel Operations Committee, and the Government Lawyers' Committee all met on November 11, 2010, at the offices of Locke Lord Bissell & Liddell. This was a joint committee meeting, as Pat suggested, and with chair, Jeff Moller, on behalf of the Regulation and Vessel Operations Committee, Mike Underhill for the Government Lawyers' Committee, and myself for the Marine Ecology Committee. Jeff and I will both be reporting on this meeting. Mike had to leave Houston to go to New Orleans for an emergency hearing related to the Deepwater Horizon litigation, but he does send his regrets.

We want to also, first, thank, Marion McDaniel, Hal Watson and Locke Lord for their generous hospitality.

We had close to 100 attendees. The main subject of our meeting, as you can see, was the Deepwater Horizon event but it wasn't the only subject. We heard from a variety of speakers on issues that we thought would be interesting to our membership and somewhat different than what you have been reading in the press.

We first heard from Capt. Steve Poulin of the Maritime and International Law division of the Coast Guard. And, Capt. Poulin, I didn't realize that you were running from one committee to another so I wanted to express our personal thanks for spending some time with us. Captain Poulin was intimately involved in the response to the spill and he talked about several topics. In particular, he talked about the joint MMS/Coast Guard investigation, highlighting the Coast Guard's mission with regard to that inquiry board, which was to determine the cause of the event for purposes of the promotion of safety.

The inquiry board process was chosen as the method for conducting the investigation because it's well established and is well respected. All of the federal agencies that are participating in the investigation agreed to use the inquiry board approach for purposes of the investigation.

Captain Poulin next talked about issues relating to the on-site response and the role of the federal government with issues relating to the federalization of the response and, in general, the many questions that arose from that response. He offered many useful observations and insights into the process.

We next heard a report, which consisted of a reading of the BP press release concerning their investigation into the spill and the failures of multiple parties leading up to the events.

Next, we heard from Elisa Waters, who is a project leader for a consortium of foreign oil companies to develop and make available for the Gulf an oil spill response facility. It was a very interesting presentation and we're going to try to get her slide presentation posted on the website.

We next heard a presentation on legal issues related to the spill and there were two issues that we highlighted. The first issue was reported by Ellis Childs. He gave us a view of the critical analysis doctrine and its availability for the legal proceedings, which already occurred and undoubtedly will occur with regard to the spill.

And the next issue was on community responders and that was reported by John Walters. That pretty much covered the Deepwater event.

I did want to mention that I'm very pleased to report that we have issued the second issue of our newsletter. There are copies of the newsletter out in the lobby. Please take one or more than one. There are topics in the newsletter covering Asian carp and recent criminal cases. I want to thank all of the contributors. Stephanie Espinoza, Kristen Fazio and Allen Black, for their contributions to the newsletter. Please feel free to contact me if you would like to contribute to future issues.

Finally, I want to thank Jeff Moller, Matt Ammerman and Captain Poulin and all of our speakers for their participation in putting together our joint committee meeting, as well as the success.

Mr. President: That concludes my report.

MR. BONNER: Thank you. Jeff.

MR. MOLLER: Thank you, President Bonner.

Ladies and gentlemen, I wanted to start by thanking President Bonner for appointing me to the chairmanship of the committee that has the longest name in the MLA: the Committee on Regulation of Vessel Operations, Safety, Security and Navigation. And also the committee that I believe has one of the most important roles, and that is liaising with and interacting with the regulatory agencies that govern our industry.

I wanted to thank, on the record, my predecessors, Chairman Tony Whitman of Baltimore, who did an outstanding job, including his initiation of joint meetings in Washington, which helped a great deal in conjunction with our spring meetings to assure attendance from various members of the regulatory community to assist us in our work.

I also want to thank for the record Fred Kenney, who had been the Chief of the Maritime and International Law for the Coast Guard and had worked with Tony over the last couple of years in our committee

activities. I wanted to note that he has been selected as admiral. I'm hopeful that when the Congress returns from the winter recess they take as a number one priority the approval of his promotion. I know they have other things in mind, but I hope they do that for Fred's benefit.

I want to go into in some detail the meeting that we held on Thursday. I certainly want to thank Locke Lord for hosting our three-hour long joint meeting, which was well attended, over 100 people, ended up in a cocktail party when Hal opened up the back of the room and a bar was revealed. So all those who stayed for the entire duration of the meeting were well rewarded.

A couple of the key items that were covered by Capt. Steve Poulin in his remarks was a Coast Guard CG 543 Policy Letter, which was recently issued on September 1, and I want to recommend its reading to the membership. That contains what I would refer to as the "three strike" rule for foreign flag vessels who are found to be in violation of the SOLAS Convention and other safety management regulations. The Coast Guard has now instituted a policy whereby more proactive measures will be taken for vessels that are detained three times within a 12-month period, which could lead to the issuance of a letter of denial, that is denying entry of that vessel to waters in the United States, until such time as they certify that they've gotten their various safety systems in order. The focus of this particular policy letter is the idea that the Coast Guard wants to emphasize adherence to the safety management system that that is in place, and whether or not a safety management system is in place.

Capt. Poulin also reported on the upcoming Legal Committee Meeting in London of the IMO that he is going to attend. Steve was evidently told that it would be a great meeting and that they had very little to do, and bring your wife, et cetera, et cetera, until he found out that it had 35 agenda items and 5,000 papers and so forth, covering, many, many issues. But the highlights of this will be in my written report.

We had also as part of our committee meeting a presentation by Larry Kiern. If you've attended any of our meetings, you can understand that Larry's presentation is always enlightening and entertaining. In fact, he works the room much like he's on the stage of the Comedy Store. And one of the things he reported on was the Coast Guard's Reautho-

rization Bill, which was passed and signed into law by the President in October, and he remarked that the 300-plus page bill is recommended reading for the curing of insomnia. But there are in that bill some 150 different sections that pertain to maritime law. As you probably know by now, the Coast Guard Reauthorization Bill is the place where every bit of legislation that pertains to the maritime industry ends up being placed. One element of the Coast Guard Reauthorization Bill is that it doesn't have to be a restructuring of the Coast Guard itself.

Another thing we were all glad to hear is the focus in the bill on fishing vessel safety.

A very important item of the Reauthorization Bill is a mandate to the Coast Guard from the Congress to reemphasize merchant marine safety issues. The Coast Guard has been famous for having to do with many other agencies. The DHS and all the other safety issues was felt to have had the side effect of drawing the Coast Guard's attention away from the merchant marine safety, and this bill, evidently, refocuses it and tells the Coast Guard to refocus on that issue.

One final thing that was pointed out in the meeting was that the Coast Guard Reauthorization Act contains a 90-day requirement for the Coast Guard to get the total vessel inspection regulations finally passed and out into the public domain. Therefore, we should see regulations out by the end of this year or January at the latest.

Finally, we mentioned at our meeting that the EPA, which for better or worse, has become a regulatory agency interested in the maritime industry, is holding a listening session on December 15 in Washington, and is soliciting written comments from interested members of the maritime industry with respect to the Vessel General Permit, which was first issued in 2008 and covers some 35 different types of potential discharges from vessels, but also things such as washing the deck of chipped paint and potential discharges from stern tubes and other parts of the vessel. Now, on December 15, the EPA is going to have a listening session where they're going to consider amendments to that Vessel General Permit, so that by the time it has to be reissued in 2013, they can say that they've had all kind of stakeholder input. So I would recommend to

your clients that they participate in that session if it can be applicable to them.

Finally, I just wanted to comment that the Coast Guard/MLA Forum is going to reconvene in February or March of this coming year, and President Bonner has solicited from Dennis and myself any input from any MLA members as to what issues they think the Coast Guard and the MLA ought to take up when they have their discussions next spring.

With that, Mr. President, my report is concluded. Thank you very much.

MR. BONNER: Thank you very much. I appreciate it. Marine Financing to be followed Marine Insurance.

MR. NOLAN: Good morning, ladies and gentlemen. The Marine Finance Committee, since its consolidated subcommittees, met yesterday at the offices of Royston Rayzor, for which we are thankful. It was a very tumultuous meeting. We had an open bar before it started. We had Capt. Poulin with us and we had a number of other guests and students. More than 20 attended in person, and another ten by telephone, which probably made it even more tumultuous, since it was an hour later up there in New York.

We have attempted in the last couple of years to operate through working groups, in the need to operate with fewer numbers of people on initiatives that we've undertaken involving either improvements or protecting the uniformity of the law.

The first initiative that was reported on had to do with the Lease Financing Amendment. As you may recall, a couple of years ago, the MLA Board approved proposed amendments to United States law that would allow the treatment of financing lessors as preferred mortgagees upon filing of demise charters with the Coast Guard. This would bring federal ship mortgage law in line with state law and the availability of security devices that attach for aircraft, rail cars and any other equipment that are lease-financed in the United States. This has so far been a hard sell in Congress, and we were asked not to push the measure in a year

when the Coast Guard Authorization Bill was deemed too critical, as the responsible congressional committee hoped to put the fewest bells and whistles on the bill.

We have since engaged with the Liberian Maritime Registry and have submitted to them a revised form of amendment to the Liberian Maritime Law to create the concept under Liberian law of a financing charter, and that is now being considered by the Liberian Shipowners' Council and the Liberian Registry. The U.S. law provides that a foreign preferred mortgage or equivalent would be enforced under United States law, provided certain standards are met regarding filing and availability to the public.

And this also falls in line with the desire of the Finance Committee to address blue water issues, recognizing particularly that shipping is not limited to U.S. flag and most shipping is registered under flags of convenience or flags of necessity. So we're trying to expand our reach, even though we can't expand our membership overseas.

The second item was a report from David Williams, who heads a working group to find some way to rationalize the transfer process from state titling to federal documentation and the reverse process of documenting vessels under the state titling laws. There are a number of issues involved there, but David gave a quite extensive report at our meeting yesterday and a very exhaustive and helpful report prepared by him was previously posted on the MLA website.

Our committee next discussed the status of a draft statute to permit filing of preferred mortgages on vessels under construction. There are a number of complex issues that arise in connection with this initiative that actually have been addressed in several other jurisdictions and that we hope can be addressed by the committee and presented to the U.S. Congress.

The next thing we talked about was formation of another working group to address Part 67 of the Code of Federal Regulations, as there are a number of places where the regulations are out of step with the statutes. The committee's recommendations hopefully will be presented

to the Coast Guard by September of this year to help them bring the Code of Federal Regulations up to date. We're hoping not to create any controversy, but simply to help clean up the CFR.

Then we talked about the recognition of foreign judicial sales of vessels. The CMI formed a working group which I have joined. We are concerned with the recognition of a foreign judicial sale so that if a buyer buys a vessel, it is really a final sale. Can a buyer at auction assume that a foreclosure sale conveys a good and marketable title to an auctioned vessel? There are a number of cases where that has not been the case or where the buyer has suffered damages in the course of ultimately proving his title. From the financing side, this is a very important issue as uncertainty in determining the validity of title will depress auction values and thereby impact the credit value that a lender assigns to a vessel in the event of foreclosure and liquidation.

MR. BONNER: Thank you very much.

MR. WILSON: Mr. President, members and guests, the Marine Insurance Committee met on Thursday afternoon at the offices of Locke Lord, and we appreciate the hospitality. It's a wonderful facility. Large firm. We had 50 people in attendance. We had many by telephone.

The importance on the teleconferences might be an honor in terms of the activities in the course of the year. Our chairman, Joe Grasso, asked me to mention that in June there was a seminar that was put on at AIMU on the cargo clauses and a comparison of those, involving a project that was taken on by the committee.

In addition, there was a completed work, thanks to Bret, on answers to the CMI questionnaire on national laws related to direct action.

The committee also agreed to form a subcommittee to work on a suggestion from Gray Staring to use his past work as a basis for an authoritative, commemorative paper on a proposal for a uniformed definition of marine insurance including a proposal for a nationwide definition. And they have agreed to participate in that project and to help.

We also had ongoing activity at AIMU on a number of variations on marine insurance forms, improvements and provisions of those, and we also will provide input on the ongoing activities between the United States Coast Guard and the MLA on activities.

At the committee meeting, as well, after going through a summary, Gene George presented our newsletter. That newsletter is on the website, if anyone didn't get a copy. It's easily accessible. Gene went through an excellent summary of some of the cases. There's several on the usual breach of warranty.

The special speaker we had was Ted Rico of Rico Insurance Brokers. He's involved with cargo insurance, associated with various commodities, particularly cotton, cocoa and coffee. He described the various forms including the AIMU cargo clause collection. They had 100-something pages. His brokerage firm has been in business since 1953 and they've had no litigation at all because of the completeness of the clauses and their effectiveness. And we told him that was a bad idea.

That concludes my report.

MR. BONNER: Thank you very much. Offshore Industries to be followed by Practice & Procedure.

MR. JACKSON: Mr. President, officers, fellow Board members, fellow members and guests. As Lisa told you earlier, we had a joint meeting yesterday afternoon of the Marine Torts Committee and Offshore Industries Committee. We were hosted by Hal Watson and Locke Lord. We are appreciative of that facility. We focused on the proposed maritime law legislation post-Macondo Well/Deepwater Horizon incident and had six different speakers.

Lisa led off by discussing the status of the pending legislation. It seems to be the consensus that right now it's dead, dead, dead. We had an intervening election, which has changed things.

We also had a presentation by telephone about the legislative process, about how this came about after the incident; the monitoring of the developments; the fact that it was moving with amazing rapidity.

The involvement of the MLA was discussed. The Board did meet in Portland in July and through correspondence with appropriate people in the Senate, brought the message to them that there is a law of unintended consequences and that if you rush to tinker with the maritime law to achieve one particular law, pre-election, there may be something occur that you might not like later. I think we had an effect by saying "wait a minute, I think we need to consider this carefully."

We then had Kent Roberts discuss the limitation of liability study that was undertaken at the request of President Bonner. Discussion will occur later on the limitation information. We also had Paul Sterbcow, the plaintiff's lawyer from New Orleans, the minority representative on that committee, talk about the views of the plaintiff's bar in regard to limitation and other changes that had been proposed.

We had John Bevins, Executive Vice President for Rowan Drilling Company, talk to us about the views of the International Association of Drilling Contractors, and a particular issue on drilling that was overlooked, as far as I was concerned. There was legislation proposing to drop the early '80s amendments pertaining to foreign offshore workers.

Finally, Skip Volkle talked about the shipowners' point of view, and we wound up by offering a period of discussion. Thereafter, we opened the bar.

So we felt like we had a very successful meeting. We had probably more than 75 in attendance and people attending by telephone.

I want to take this occasion to thank all of the Houston law firms, companies and service providers who so generously responded to my request for funding to put on a terrific meeting here in Houston for the MLA. It's their response that has enabled us to have a very successful meeting. I just want to say thank you. And that concludes my report.

MR. BONNER: I want that on the record. We want to come back here again.

MR. FORCE: Thank you, Mr. President, officers, fellow directors, and members of the Association, the Practice and Procedure Committee met yesterday at Eastham Watson. We would like to extend our thanks to that firm, and especially to Andy Durham, for hosting us and for their hospitality. We had more than thirty people in attendance both in person and by way of teleconference, including a number of law students from Tulane Law School.

We discussed three main topics during the meeting. First, with the assistance of the Young Lawyers' Committee, the committee conducted a study of the Local Admiralty Rules in the federal district courts. The study focused, in particular, on the extent to which the federal district courts have adopted the Association's Model Local Admiralty Rules. I would like to recognize and thank Sam Blatchley, Lafcadio Darling, Brandon Bigelow, Daniel Cragg, and Ricardo Rivas for doing the research for this study and preparing a chart of their findings. I would especially like to recognize Sam Blatchley, the committee's YLC liaison, for supervising this project. This group surveyed 92 judicial districts and found that 38 judicial districts had implemented some form of local admiralty rules. Of those judicial districts, nine have adopted the 1997 Model Local Admiralty Rules, and another five have promulgated local admiralty rules that reference the 1997 Rules. Five judicial districts have adopted the 2008 Model Local Admiralty Rules, four of which, Maryland, New Jersey, Pennsylvania, and Texas, had previously adopted the 1997 Model Local Admiralty Rules. The committee is finalizing a chart showing the results of this research and will post the chart on the MLA website when it is completed. Former President Marwedel had sent a letter to all of the judicial districts when the 2008 Model Local Admiralty Rules were drafted. So, it appears that we still have some work to do in getting a number of additional districts to adopt those rules. I would encourage all members of the Association who serve on their local rules committees or who have access to those committees to make sure that our Model Local Admiralty Rules receive very serious consideration.

The second issue that the committee addressed was the CMI questionnaire regarding the recognition of foreign judicial sale of ships, which was discussed a little bit earlier. The committee worked with the Marine Finance Committee in preparing the answers to that questionnaire, focusing, in particular, on the procedural aspects of the questionnaire. We plan to coordinate with the Marine Finance Committee on a joint program for the fall 2011 meeting to explore further the issues addressed in the questionnaire.

Lastly, we continued our on-going discussion of Rule B attachments of EFTs and, in particular, the fallout from the Second Circuit's *Jaldhi* opinion. We reviewed a number of cases that were summarized by Larry Kahn of New York. The United States District Court for the Southern District of New York has continued to apply *Jaldhi* to vacate Rule B attachments of EFTs, including funds that following attachment have been deposited in the court's registry. The courts have recognized some exceptions, but those exceptions have been very limited. Some courts have exercised their equitable authority to allow attachments if the defendant was insolvent and not likely to satisfy an arbitration award. Other courts have permitted attachment following a judgment.

One issue the committee is considering looking into is the extent to which the New York courts' negative view of Rule B attachments in EFT cases has affected the attachment of traditional property, including money in bank accounts. Based upon a survey of the members of the committee who attended the meeting, that does not appear to have happened outside New York, but it is something that the committee will continue to monitor.

Mr. President, that concludes my report.

MR. BONNER: Thank you. Salvage to be followed by Young Lawyers.

MR. WHITAKER: Thank you, Mr. President. In keeping with the purpose of salvage, I'll make it quick. We had a meeting on Thursday at the office of Strasburger Price with approximately 30 in attendance. Committee Vice-Chair, Jason Harris, provided an update on recent salvage case law.

Mr. Jim Shirley, of JPS Marine and counsel of the American Salvage Association, provided an update on legislative proposals to OPA 90 that could impact the salvage industry.

We also had a brief discussion regarding the UNESCO Treaty, its protection of underwater antiquities, and the practical inputs that can be felt in commercial salvage.

Captain Douglas Martin of Smit Salvage Americas gave a presentation on the general principles of wreck removal. We recognized veterans for their service.

Salvor immunity, remuneration for pollution avoidance, and decriminalization of salvors were identified as three priority issues that face salvors today.

That concludes my report.

MR. BONNER: Thank you very much. Is Alex here? Young Lawyers?

MR. GILES: Good morning Mr. President, MLA officers, directors, members and guests. The Young Lawyers Committee met yesterday at Royston Rayzor's offices with a strong attendance in excess of twenty-five individuals, featuring a nice cross-section of committee regulars, U.S. Coast Guard representatives, law student members, and Young Lawyer representatives from the Royston Rayzor firm. The committee discussed several of its ongoing projects for the Association and for various standing committees, to include the MLA resolutions project and the recently completed project examining the local admiralty rules in each of the federal district courts throughout the country. The latter project was undertaken for the MLA's Practice and Procedure Committee, and similar to Josh Force's recognition in his report, I would also like to recognize those named volunteers, particularly Sam Blatchley, for their dedicated and thorough work on this project.

The committee also discussed a possible new assignment in support of the work of Kent Roberts' Special Committee addressing limitation of liability and the associated legislation before Congress.

Finally, the committee heard from several of our committee liaisons with status reports on the activities of their respective standing committees. As most of you may be aware, the Young Lawyers recently reinstated the committee liaison program under the leadership of our committee's Vice Chair, Betsy Bundy. All committee liaison appointments have been made and a chart reflecting those appointments will be posted on the MLA website in an appropriate location.

As is always the tradition of the Young Lawyers Committee, we convened for a social outing and dinner at Le Mistral Restaurant Thursday night following the museum event. We had a crowd of thirty-five young (and some not so young) lawyers, and a very enjoyable time was had by all. However, out of an abundance of caution for our safe transportation to and from the restaurant, a limo affectionately referred to as "The Mammoth" was procured, but rather than provide descriptive details of our journeys in "The Mammoth," I will merely borrow a phrase coined by our committee's Secretary, Norman Stockman, that "what happens in The Mammoth, stays in The Mammoth."

All kidding aside, the Young Lawyers Committee would like to extend its extreme gratitude to Rich Branca and the Royston Rayzor firm for their generous hospitality all week.

Mr. President, that concludes my report.

MR. BONNER: On the Special Committees, I don't know if the In-House Lawyers Committee wants to take a report or not. The In-House Lawyers Committee is a Special Committee whose membership is by invitation only. You have to work in-house, and we sort of keep it limited to In-House Lawyers only. I received an e-mail from somebody yesterday saying that he attended the meeting. It was great. He wanted to join.

MR. VOLKLE: In-House Lawyers. We had a great meeting. Thanks to Phelps Dunbar. We had 8 to 10 in-house counsel, along with a

number of law students, we wanted to see what we can learn at our secret in-house meeting. We talked about all outside counsel.

But the primary focus of the meeting was number one, the Deepwater Horizon legislation, and the Coast Guard Authorization Act, and some of the significant impacts of both those topics in the industry.

And that concludes my report.

MR. BONNER: Thank you very much.

Are there any committees that I missed?

All right. We're going to move along to maybe the most important part of the program this morning, and that is the discussion on limitation, and I'm going to call upon Kent Roberts, who is the facilitator, scribe, reporter, of the Special Committee that I appointed to give his report and to make a resolution.

MR. ROBERTS: Thank you, Mr. President. On August 25th, President Bonner appointed the Special Committee as sort of the outgrowth of the whole summer's activity dealing with the Limitation of Liability Act. The committee's task was to examine legislative proposals to change or eliminate the Limitation of Liability Act and to make recommendations to the MLA Board as to what position or positions the MLA should take with respect to the proposed changes affecting ship-owners' liability. Five members were appointed to the committee: on the cargo plaintiffs' side, Ray Hayden of New York; on the cargo defendants' side, Chet Hooper of Boston; on the personal injury plaintiffs' side, Paul Sterbcow of New Orleans; and on the personal injury defense side, Gordon Schreck of Charleston. An academic member was also appointed, Professor Thomas Schoenbaum of Washington, D.C.

The committee held a number of meetings and also performed quite a lot of research independently. The goal was to try to come up with the position that would represent a consensus of the MLA that could be presented to Congress.

As you have already seen by reviewing the report on this issue, I won't say that effort failed, but we had a situation where there was already a position stated by the plaintiffs' bar before Congress. That position had resulted from a number of legislative proposals over the course of the summer and was now represented in Senate Bill 3755. That bill would remove claims for personal injury and wrongful death from the Limitation of Liability Act. And as Paul Sterbcow reported to the Maritime Torts Committee yesterday, he was in a position where he already had a consistent, agreed position. As representative of the plaintiffs' bar, Paul was not in a position where he could negotiate against the stance taken by the plaintiffs' bar in Paul's deliberations in our committee. So Paul was unable to take up specific points about the Limitation Act or come up with any changes that would be different from the position of the plaintiffs' bar before Congress.

That led the majority side to look at other avenues of potential benefit from changes to the Limitation Act, consistent with the purposes of the Maritime Law Association, particularly in the promotion of uniformity. The result then is the Majority and Minority Report presented to the Association.

The majority of the committee opposed the changes proposed to the Limitation of Liability Act in Senate Bill 3755. In the alternative, the Majority Report seeks to have the MLA ask Congress to instead consider adoption of the 1976 International Convention on Limitation of Liability, to consider adoption and study as a possibility together with the 1996 Protocols to the International Convention that amend the amounts that are subject to limitation; and that this be done in a manner that will have consistent application for both domestic and non-domestic vessels operating in U.S. waters. The goal of this examination and the potential adoption of the Convention should be to maintain consistent treatment of limitation of liability across different sectors of the vessel operating community.

In addition to considerations of international comity adoption of the Convention would promote uniformity of the maritime law in future limitation of liability situations. Adopting the Convention would avoid disparate treatment of plaintiffs, simplify procedural aspects of limitation, and minimize the possibility of inconsistent and conflicting court

rulings in application of the limitation regime different from that spelled out in the Convention.

Now, one of the things that Paul Sterbcow made very clear in the deliberations, was that although he couldn't come off of the position that was taken in Senate Bill 3755, the plaintiffs' bar (as represented by American Lawyers for Justice) had never considered the Convention. Paul made comments at the meeting of the Maritime Torts Committee yesterday that were critical of the Convention from the point of view of the plaintiffs' bar, and we acknowledged those criticisms had some validity in discussion among the majority of the committee. But there is room within the Convention allowing those states which choose to adopt it or to adopt it, to make adjustments to certain categories for treatment of vessels through domestic legislation. Such adjustments could be a subject of discussion with the plaintiffs' bar if this proposal were to go forward in the Congress.

Your committee's Minority Report would recommend to the MLA that it states support for Senate Bill 3755 so as to exclude wages, personal injury and death claims from the Limitation Act, leaving other claims for cargo loss, collision damage and the like subject to limitation.

The report of the committee has previously been circulated to the members of the MLA. Because there was a majority position stated, the committee asks the MLA to consider a resolution adopting the Majority Report, giving the President of the Association the authority and discretion to liaise with Congress and to take those steps deemed by the President necessary or advisable to advance the majority position.

And, Mr. President, I will read the resolution:

Resolution on Limitation of Liability Act

WHEREAS there have been a number of bills introduced in the United States Congress to repeal or significantly modify the Shipowner's Limitation of Liability Act, 46 U.S.C. §§ 30501-30512, and the President of the Maritime Law Association ("the Association") appointed a Special Committee to study the bills that were introduced in Congress and to formulate a report rec-

ommending the position that the Association should take on a Shipowner's Limitation of Liability Act; and

WHEREAS the Special Committee issued a report on September 25, 2010 with the majority of the Committee recommending that the Association petition Congress not to repeal the Shipowner's Limitation of Liability Act but to amend the Act by adopting the 1976 Convention on Limitation of Liability for Maritime Claims and the 1996 Protocol Amendments to the 1976 Convention;

BE IT RESOLVED that the Association recommends that the United States Shipowner's Limitation of Liability Act, 46 U.S.C. §§ 30501-30512 not be repealed and that the Association considers that the concursus provisions in the Act to be critical in resolving all of the claims arising from a single maritime casualty; and

BE IT ALSO RESOLVED that the Association's position on this issue is that the United States should adopt the 1976 Convention on Limitation of Liability for Maritime Claims with the 1996 Protocol Amendments to the 1976 Convention in a manner that will have consistent application for both domestic and non-domestic vessels operating in U.S. waters and international waters and it also have a consistent application to vessels of all classes in commercial and non-commercial trade; and

BE IT FURTHER RESOLVED that the President of the Association is hereby authorized and directed to inform the appropriate Committees and Members of Congress and the Executive Branch of the Association's position with respect to the foregoing, and to authorize representatives of the Association to represent the Association in communication with Congress and the Executive Branch with respect thereto, subject to such conditions as the President may deem appropriate.

Dated November/December- 2010

This concludes the resolution. I want to thank the President for assigning me to this committee and giving me the opportunity to be

involved in the committee's work. I especially want to commend and thank Gordon Schreck and Paul Sterbcow in trying hard to reach a middle ground if one could be obtained. I thank all of the members of the committee for their efforts and intellectual talents. This was a difficult exercise. The result is asking this Association to liaise with Congress in a way that could bring the Convention at least into the discussion in the event that Congress takes up the subject either in the upcoming lame-duck session or in years to come.

Mr. President, that is the resolution and the result of your committee's work. I present it to the Association and move its adoption.

MR. BONNER: Is there a second to the motion?

AUDIENCE: Second.

MR. BONNER: Discussion? If you want to discuss this at all, please come forward. Give your card to the reporter, and the mike is open.

MR. HERD: This is Charles Herd of the Houston area. I attended by phone most of the Maritime Torts meeting yesterday, and I was struck by Paul Sterbcow's comment or suggestion that the resolution reflect not only the majority view, which has just been presented, but also the minority view, or at least the notion that there is a minority view, so that Congress could hear that there was more than just a single view.

MR. BONNER: Maybe, Mr. Herd, if you could read your proposal.

MR. HERD: In fact, Kent has just shown me, and I wasn't aware of this, a draft of the version that had been circulated earlier in anticipation of this very issue. And if I'm understanding it correctly, this is a clause adding to the second whereas, so let me read that paragraph:

WHEREAS the Special Committee issued a report on September 25, 2010 with the majority of the Committee recommending that the Association petition Congress not to repeal the Shipowner's

Limitation of Liability Act but to amend the Act by adopting the 1976 Convention on Limitation of Liability for Maritime Claims and the 1996 Protocol Amendments to the 1976 Convention; and a minority of the Committee recommending the Shipowner's Limitation of Liability Act be repealed for claims for personal injury and death.

And then the rest of the resolution goes on as is.

MR. BONNER: Are you making a motion to amend the resolution?

MR. HERD: Yes, sir. So in light of that, I move that the resolution that's just been read also reflect the minority view that was discussed yesterday in the Marine Torts Committee.

MR. BONNER: Is there a second to Mr. Herd's motion?

AUDIENCE: Second.

MR. BONNER: Okay. Is there any discussion on this? Is there any discussion on the motion to amend the resolution to include the Minority Report?

MR. VOLKLE: As I had discussed at the Marine Torts Committee meeting yesterday, I strongly favor the original resolution, and I do think that we ought to put the limitation investigations on the table.

From the shipowner's standpoint, we look for certainty, predictability and suability and efficiency. The efficiency created by the present Limitation of Liability Act is essentially from the shipowner's standpoint, that is preserved in the Convention. The Convention also addresses failure to present the Limitation Act with respect to sufficient funds by primarily operators of the vessels so it wouldn't call mainstream commercial vessels. So it has all that in fairness.

That being said, I strongly oppose the amendment to the resolution for the following reasons. It is true with respect to any issue that there will be divergent opinions within our group because we have a diverse organization. As an Association we adopted the resolution in favor of the Rotterdam Rules. We sent people to Europe to participate, and the adoption of the Rotterdam Rules, even though I can still remember Michael Cohen getting up and strongly objecting to the Rotterdam Rules. The bottom line is that we need an Association to be able to come together and have an Association position. I think the work the committee is doing is excellent. The resolution puts the Convention on the table for consideration by Congress. Those who have a different view can come into the debate and let Congress know that there is opposition, but from my standpoint, it seems to me that the Association's view, the overwhelming majority of the Association is in favor of the committee report. And therefore, I would strongly oppose the resolution, and from a personal standpoint, if the amendment is adopted, I will vote against the resolution. Thank you.

MR. BONNER: Is there anybody else who wants to talk on further on the amendment?

MR. MOLLER: Jeffrey Moller. Personally, I think, Mr. President, I believe that if the resolution is amended in the way it was suggested, it would not adequately reflect the full feeling or the vote, if you will, within the Association with respect to the original resolution. If we merely say that there was a majority of the committee that felt one way and a minority of the committee felt another, I think that it greatly waters down strength of the resolution and would not appropriately convey what the vote was, if you will, as to what ought to be done for the Limitation of Liability Act.

MS. WEGMANN: I'm Cynthia Wegmann. I'm seeking a point of clarification. At the end of your reading the resolution, did you say that we will send this if the Senate and House take up this Act, or send it regardless of whether they revisit it?

MR. ROBERTS: I understood it to be a position of the Association, that it will be sent regardless.

MR. BONNER: With the additional language that you just read, are you withdrawing the motion to amend or what?

MR. HERD: My amendment is now to amend the language that was originally read but to also include the language that I've just read from the underlying version. That would be my amendment.

MR. BONNER: I believe we vote first on the amendment and then on the resolution. So if anybody wants to talk about the amendment, now is the time.

MR. JACKSON: Mr. President, I'm speaking now about the process of voting, not on the merits of either issue. I wanted to make it clear that my view is that sometimes people don't think the General Meeting of the MLA is anything of importance, but since we do speak through our membership, attending a General Meeting is important.

Also, in anticipation of the criticism, I rise to say that the Board, as far as I'm concerned, would consider a proxy voting for General Meetings, but there has to be an advanced request and notice and due process in allowing people to know that proxy voting is being considered or ultimately will be allowed.

So I rise to make two points: One, it is important to come to the General Meeting of the MLA; and two, as to matters of voting, I think the Board would be open to consider proxy voting and would have had it been addressed in a timely manner.

MR. ENGLISH: Gary English of Charleston, South Carolina. We represent a lot of dredgers, small companies, and modifying limitation of liability would be, I think, a detriment to those interests, and I think it would have a grave consequence; that is, when you start raising the limits as some of these other international conventions do, larger companies can take that cost and spread it across a lot more units. And so it gives the smaller guy a much more difficult time, and I think there's another unintended consequence -- that having that threat of limitation

of liability in our tool bag creates a better opportunity for settlement discussions prior to litigation. Just a couple points I would like for you to consider. Thank you.

MR. NOLAN: Frank Nolan. My view is that I can't think of a bigger mistake than watering down the resolution as it was originally presented. Every one of these things has been said before as divergent views, minority views, and then finally decided majority views. I think if we are going to start watering ourselves down before we start voting, we might as well stay home and not discuss it. If we make a decision that the majority supports a particular resolution, that should be the resolution of the Association. We have a free press and free society. Lord knows the reason we're talking about this is because other constituencies put that pending bill across in the Senate. So I would suggest that we stick with the original resolution and recognize our brethren's right to make their views known separately, but that it is not the view of the Association and we ought to be very forthright about that.

MR. BONNER: Does anybody else wish to be heard on the amendment?

All those in favor of amending the resolution to include reference to the Minority Report as set forth by Mr. Herd, please stand up.

All those opposed please stand up.

It seems like the opposition to the amendment has carried the day. Now we're going to go back and talk about the original resolution. Is there anymore discussion on the original resolution?

MR. MOLLER: As I understand the resolution it suggests that not only Congress merely consider the 1976 Convention, but that it adopt the 1976 Convention. Is that how it reads?

MR. ROBERTS: It states that the Association's position on this issue is that the United States should adopt the 1976 Convention. So the language ended up with a positive statement of adoption.

MR. MOLLER: Rather than mere consideration?

MR. ROBERTS: Yes.

MR. MOLLER: I must admit, Mr. President and fellow members that I'm not very familiar with the 1976 Convention so I feel like on this resolution, I would not know how to vote. We haven't operated in this country under that convention so I'm not familiar with exactly how that would change existing law. I think to that extent we might want to consider exactly what the committee's recommendation would be and that is to recommend to Congress that it consider adoption of the '76 Convention.

MR. BONNER: What does the resolution say?

MR. ROBERTS: The resolution states that the United States should adopt the Convention in manner that will have consistent – what I think – I think it's a good point of somebody saying drafting and trying to come up with what the majority wanted to do. And the majority of the recommendation was to ask Congress to consider adoption of the Convention.

MR. BONNER: Do you want to amend the resolution to add that?

MR. MOLLER: Unless I'm the only one ignorant of the Convention, I would make a motion that the resolution be amended to say not that the Association suggests adoption, but that the Association suggests consideration of adoption.

MR. ROBERTS: I would second that motion, because as we look through this draft and process, debating how to have a resolution, what the majority wanted, the majority became very familiar with the operations of the Convention and was able to be very comfortable how it would be applied. That is not the universal position for everybody within the Association, and that's one of the reasons that the recommendation was to ask Congress to consider the adoption of the Convention.

And I would ask that that amendment be inserted into the second-to-last paragraph so that it now reads, "Be it also resolved that the Association's amendment on this issue is to ask Congress to consider adoption of the 1976 Convention on Limitation of Liability for Maritime Claims," with the balance of that paragraph to read as it was previously read into the record.

MR. BONNER: So now we have a motion and a second to add to consideration.

Is there any discussion on that?

MS. BURRELL: My distinct recollection is that as an Association, we are already on record as supporting the Convention. It seems to me it would be a mistake to backtrack now. Either we recommend the Convention or we don't. Naturally, Congress will "consider" alternative responses to the Deepwater Horizon disaster. That goes without saying. The question is whether or not we can influence those ruminations by recommending the adoption of the Convention.

Apart from our historical support for the Convention, we customarily rely on the expertise of our committees, and this committee, after careful study and familiarity with the Convention, believes in the value of that Convention and that it should be adopted by the United States. I think the resolution should be a straightforward recommendation of a position developed by the Association in the past and confirmed by a committee in the present.

MR. WHITMAN: Tony Whitman. Just a question: Kent, in terms of process, as I understand it, then, the majority recommendation was to consider but the draft resolution is to recommend adoption?

MR. ROBERTS: Yes.

MR. WHITMAN: And I guess how does the committee get from Point A to Point B so that we understand that process?

MR. ROBERTS: The result of the Majority Report recommendation was in response to Senate Bill 3755, and the position was do not repeal or amend the Limitation Act as suggested by 3755, but as an alternative, adopt the Convention and that's how that word got in there.

And the conclusion of the Majority Report, if you read the Majority Report, it recommends the Convention going through the analysis of how the Convention would be applied to domestic shipping, and giving examples of how the Convention would set a maximum limitation of liability fund that must be funded as a condition of obtaining limitation, and how that compares to the present Act.

The recommendation then is a result of that analysis, favoring the Convention over the domestic Limitation of Liability Act, if it was going to be changed as 3755 would change it.

And so I guess in terms of how that is then summarized, yes, in the alternative to Senate Bill 3755, adopt the Convention rather than change the Limitation Act as stated in 3755.

So in that regard, I would actually look to the President to what charge would you want because the committee would say, adopt it, if 3755 is in the debate, and so that's where they came out.

MR. BONNER: I think the question right now is the original resolution said adopt it. The amendment says consider adopting it, and we've had a lot of discussion on whether those words "consider" should be added or not. I guess that's the question. Does anybody else want to speak on that?

All those who are in favor of amending the resolution to include the language that we ask Congress to consider the Convention stand or say aye.

All those opposed stand or say nay.

I think the opposition carries the day.

MR. ROBERTS: So it will then go back to its original statement that it is the Association's position on this issue that the United States should adopt the 1976 Convention.

MR. BONNER: Okay.

MS. BURRELL: Another point needs to be raised here: Our association has always been in favor of the uniformity of international maritime law. A resolution recommending adoption of the Convention therefore has the additional merit of consistency with the historical and current objectives of the Association.

MR. BONNER: Does anyone else wish to be heard on the original resolution?

MR. GREENMAN: I'm Don Greenman of Baltimore, and at one time, when it existed as a separate committee, I was Chair of the Limitation of Liability Committee. The problem I see with this resolution, as it stands, is we recommend that Congress adopt the Convention. They can't consider the Convention unless the President sends it to them and I don't believe the U.S. has even signed the Convention.

Many years ago the Limitation Committee and the CMI drafted domestic legislation to parallel the 1976 Convention because we didn't think the limits were high enough when they were adopted.

And so the question is: What are we asking Congress to do? How can they consider a convention, in fact, until the President sends it to them? They could enact it as a measure of domestic legislation.

MR. BONNER: Could you read the last paragraph again, what you're asking the President to do.

MR. ROBERTS:

Be it further resolved that the President of the Association is hereby authorized and directed to inform the appropriate committees and members of Congress and the executive branch of the Association's position with respect to the foregoing and to

authorize representatives of the Association to represent the Association in communications with Congress and the executive branch with respect thereto, subject to such conditions as the President may propose.

MR. BONNER: So I think it's pretty clear that we're not just asking Congress to do something, but we're going to the executive branch, also. So I think that covers your question.

MR. ROBERTS: I think Don raises a very good point, but the committee majority was trying to develop a response to pending Congressional action on the Limitation Act. The response would be "don't do that" instead let's get this other idea under consideration in the alternative, if there is going to be any action on amending legislation at all.

MR. BERNS: Phil Berns of Las Vegas—and I had to get permission to leave Vegas and attend here—the casinos are flying their flags at half mast this week until I return.

It sort of surprises me what is being argued today—and I've raised this issue of MLA records before, almost *ad nauseam*, as we have argued the issue since 1899.

If you take a look at the document—the documents—each one of the issues, believe it or not, with slightly different titles, have been argued before—and often. One of the striking things that got me interested when I was appointed as archivist, was you apparently wanted someone who was present at the time to review them—and, apparently, Marshall Keating was not present. So I accepted.

In any event, this country started as a cargo owner nation, not a shipowner nation. And if you look at all the documents you will see that the MLA spoke more for cargo interests than for ship owner interests, and that limitation was to be treated accordingly.

World War I changed all that and, of course, World War II also changed that when the United States became a big shipowner interest and that's of course what happened—and has remained changed.

But every one of these items, including who should be covered—including whether the Jones Act should exist subject to limitation or whether longshore and harbor workers should be subject to limitation—were treated. The report that has been presented today is a very comprehensive report but I'm a little disturbed that we don't seek the long history behind it. You can go and see what the feelings of the MLA were in relation to these issues that have been discussed and the amounts involved, coverage, etc., but we don't make reference to them in our reports here.

I propose that the historical record should be considered and as a registered Democrat suggest that if you ignore history you will vote Republican—but I'm not going to do that!!

In any event, I think most of the stuff that was said today was very good, and I myself would vote in favor of this, but I think we should go back and really treat the issue of what the MLA has already done on this.

And, finally, some more history, when limitation of liability was first treated by the MLA in the early 1900s the vote was 16 in favor—and that's how we became a party in the process and impressed Congress with our influence—and for a final touch of history—if you go through the votes of 1930, most of the MLA votes on procedures, etc., were by 10 to 15 people—in the early 1900s, after the votes, the 10 or 15 people retired to Delmonico's for dinner—at \$5 per (drinks extra).

MR. ROBERTS: If I could respond to Phil's comments: One of the advantages of the committee appointed by our President is that it included two past Presidents of the MLA, who had a collective memory of the past actions of the Association, in particular, the work done by Limitation Committee as Don Greenman has reported in working up alternative domestic legislation.

MR. BONNER: Is there further discussion on the resolution? Anyone else wish to be heard?

All right. Why don't we vote on the question: All those in favor of the resolution, please stand.

All those opposed stand.

I think the resolution passes. Thank you very much.

MR. ROBERTS: Thank you, Mr. President.

MR. BONNER: Is there any other new business to discuss? Is there any old business to discuss? As senior past President, may I have a motion, Mr. Moseley?

MR.. MOSELEY: Yes, Mr. President, I hope it will be greeted happily, and I express our continued thanks for the colleagues here in Houston for their great Texas hospitality. I move we adjourn.

MR. BONNER: Is there a second?

AUDIENCE: Second.

MR. BONNER: All in favor.

SPEAKER: Aye.

[15930]

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

Held at the offices of
Schwabe Williamson & Wyatt
211 SW 5th Avenue, Suite 1900
Portland, Oregon

On
Saturday, July 24, 2010

At
8:30 a.m.

The July 24, 2010, meeting was called to order by President Patrick J. Bonner at 8:30 a.m. In addition to President Bonner, the following officers were also present:

Robert J. Parrish, First Vice President
Robert G. Clyne, Second Vice President
William Robert Connor, III, Treasurer
David J. Farrell, Jr., Membership Secretary
Warren J. Marwedel, Immediate Past President

The following directors were also present:

Frank P. DeGiulio*
Joshua S. Force
Barbara L. Holland
Bradley A. Jackson
Kimbley A. Kearney
Robert B. Hopkins
Dennis Minichello
James F. Moseley, Jr.
Thomas J. Muzyka
Francis X. Nolan, III
George W. Nowell

*present by telephone

In addition, the following members and guests were present at the invitation of the President:

C. Kent Roberts

SECRETARY'S REPORT

Upon motion duly made and seconded, the minutes of the May 6, 2010 meeting of the Board of Directors were unanimously approved and accepted.

TREASURER'S REPORT

Mr. Clyne, the former treasurer and Mr. Connor, the new treasurer reported that the Association has approximately \$526,474.79 in cash and investments. We are still waiting for the final bill and final accounting for the Spring Dinner, but it does appear the dinner was in the black.

Dues collection remains slow, with approximately \$249,000.00 collected out of a total of \$360,000.00 billed. The collection efforts undertaken by the Board showed good results, but more members are not paying 2010 dues than usual. There was a general discussion about dues notices being lost in email folders and PC Solutions will be asked to forward written reminders to those owing dues.

As a follow-up to the discussion in May, the signatories on the various accounts are in the process of being changed to reflect the change in officers.

The CMI invoice for 2010 has been received and paid. We are looking to further discussions with the CMI, at the Fall Meeting in Buenos Aires, to discuss further reductions in the CMI dues.

On motion duly made and seconded, the Treasurer's report was approved.

MEMBERSHIP SECRETARY

Mr. Farrell delivered the Membership Secretary's report. The Committee on Proctor Admissions has recommended the following person be reinstated as a Proctor:

David F. Bartz, Jr., Oregon

In addition, the following 20 applications for Associate membership have been received:

Alejandro Bellver Espinosa, San Juan, Puerto Rico
Nathaniel L. Eichler, New York, New York
Jessica S. Gilbert, Houston, Texas
Alica N. Gran, Harrow Middlesex, United Kingdom
J. Lee Hoffoss, Jr., Lake Charles, LA
Samuel C. Kauffman, Portland, Oregon
Fara Kitton, New York, New York
S. Eric Lee, Mobile, AL
Kenneth F. McGinis, New York, New York
Declan McKeever, London, England
Bernard J. McShane, Washington, DC
Patrick F. McTernan, Honolulu, Hawaii
James E. Morris, New York, New York
Abigail Nitka, New York, New York
Patrick R. O'Mea, New York, New York
Vince C. Rueter, Edina, MN
David E. Sigmon, New York, New York
Brooke Travis, New York, New York
Jon Werner, New York, New York
Paula B. Whitten, Houston, Texas

The following three applications for Law Student membership have also been received:

Samantha Burmeister, St. Thomas University School of Law
Christine Dimitriou, St. Thomas University School of Law
Michelle Hubbard, Florida Coastal School of Law

On Motion duly made and seconded, all of these applications were approved.

Mr. Farrell also regretfully reported the deaths of the following Members:

Paul D. Hardy, Life/Proctor 1964, of Clearwater, FL
Professor Jo Desha Lucas, Academic 1978, of Chicago

Mr. Farrell reported on the status of law student membership. It appears that many law student members are not paying their dues. It was decided to study the continuation of the law student membership program and discuss this at a future board meeting.

The Directory is scheduled to go to the publishers later this summer, and will be out this fall.

It was observed that over 300 MLA members have achieved the 40 year status and no longer are required to pay dues. Two members in this category have made donations to the Association, and it was recommended that these members be recognized by a letter of appreciation from the Association.

On motion duly made and seconded, the Membership Secretary's report was approved.

ASSOCIATION MANAGEMENT

Website

Immediate Past President Warren J. Marwedel and First Vice President Robert B. Parrish have been tasked with working with PC So-

lutions to update the website and make suggestions to the board for further changes in the website.

Committee Leadership Appointments

New committee chairs are being selected to be appointed by President Bonner.

BOARD SUBCOMMITTEES

President Bonner announced changes to the board subcommittee structure indicating three subcommittees will be created.

The first subcommittee will be the Meetings Committee, with Frank DeGiulio, Robert Hopkins, Barbara Holland and Kimbley Kearney. This subcommittee will review and make recommendations regarding the New York committee meetings, review of other parts of the New York meeting, perform a critique of the Houston meeting and see if regular board meetings can be more effective.

The second subcommittee will deal with maritime law and determine whether or not the MLA is meeting its objectives of advancing reforms to U.S. domestic law, domestic regulations, international law, and also our practices on considering requests for Amicus Briefs.

The third subcommittee will focus on members and how we can provide additional services to our members. They will look at an outreach program for obtaining new members, how to get people involved in committee work, and try to determine what prompts a member to become inactive or drop membership in the Organization.

BOARD REPORTS AND ACTIONS

Amicus Requests

President Bonner reported that the MLA would be filing an amicus brief in *Lee v. Astoria* the following week. There was some general discussion concerning the amicus application and whether or not it needs to be amended. It must be stressed that members requesting an amicus

brief be filed should confirm that they have informed the opposing parties.

Admiralty Assessor Proposal

President Bonner had received correspondence regarding a proposal for an Admiralty Assessor Program in the Southern District of New York. It was noted that a similar proposal was considered and rejected in 1998. After discussion, the Board passed a resolution reconfirming the Board's rejection of the Admiralty Assessor Proposal for the Southern District of New York, under Local Rule 83.12, in 1998. The Board could find no reason for changing the existing policy.

CMI Questionnaire on MLAUS Structure

President Bonner is working on a response to the CMI Questionnaire relating to the structure of the MLAUS. When he has finished the questionnaire he will submit it to the Board for review before submitting it to the CMI.

CMI Salvage Questionnaire

No response will be made on the CMI Salvage Committee Questionnaire.

CMI Insurance Questionnaire

President Bonner is working on a response to the CMI on the Insurance Questionnaire. When he has finished the questionnaire he will submit it to the Board for review before submitting it to the CMI.

Judicial Sale of Ships

A general discussion was held concerning the CMI proposal on the Judicial Sale of Ships. President Bonner is working on a response to the CMI on the Judicial Sale of Ships. When he has finished the questionnaire he will submit it to the Board for review before submitting it to the CMI.

CMI Financial

A general discussion was held on the relationship of the MLA with the CMI and issues of CMI relevancy to the MLA and the financial structure of the CMI. President Bonner, First Vice President Parrish and Immediate Past President Marwedel will be attending the fall CMI meeting. Discussions with the CMI will continue.

Rotterdam Rules Resolution

The Rotterdam Rules Resolution was discussed. It states as follows:

Resolution of the Committee on the Carriage of Goods of the Maritime Law Association of the United States Regarding the Nature of the Rotterdam Rules as a Self-Executing Treaty

WHEREAS, The Maritime Law Association of the United States has its purpose to promote international uniformity of private commercial law; and

WHEREAS, The United Nations Commission on International Trade Law has prepared the Convention on the International Carriage of Goods Wholly or Partly by Sea (known as the Rotterdam Rules) with the participation and advice of many governments and non-governmental organizations, including members of our Association; and

WHEREAS, The Maritime Law Association of the United States passed a Resolution in support of United States signature and ratification of the Rotterdam Rules at its Spring Meeting on May 1, 2009; and

WHEREAS, The United States signed the Rotterdam Rules at a ceremony in Rotterdam on September 23, 2009, thus showing its intent to ratify the treaty; and

WHEREAS, United States ratification of the Rotterdam Rules is critical to the ultimate entry into force of the treaty and its broad international acceptance; it is

RESOLVED that the Maritime Law Association of the United States, after careful consideration, believes that the Rotterdam Rules treaty is sufficiently clear and detailed and should be considered self-executing under applicable law and precedent; and

It is further RESOLVED that the Maritime Law Association of the United States urges the United States Administration to move expeditiously to send the ratification package to the Senate and that the Senate promptly provide its advice and consent to ratification of the Rotterdam Rules; and

It is further RESOLVED that the President of the Maritime Law Association of the United States or his delegate is authorized to make known these Resolutions to the Secretary of State of the United States, the Congress and such other bodies that the President may consider to be appropriate.

On motion duly made and seconded, the Rotterdam Rules Resolution was approved.

Should the Senate ratify the Rotterdam Rules, additional legislation would have to be introduced to both houses of Congress to deal with COGSA, Harter and the Pomerene Act to make sure they still function as domestic legislation for the transportation of goods.

Limitation of Liability

As a result of the BP spill in the Gulf, there has been considerable activity in the Congress dealing with the Limitation of Liability Act. During telephone conferences of the Board of Directors on July 18 and 19, 2010, the Board of Directors approved the language of a letter dated

July 20, 2010, sent to the Senate, The Honorable Harry Reid and The Honorable Mitch McConnell by the President.

President Bonner brought the Board up to date on legislative activity regarding the Limitation of Liability Act, and it was decided that a second letter would be sent to the Senate. After long discussion and drafting, the Board of Directors approved the general language of a second letter, giving the President authority to make appropriate editorial changes after the meeting of the Board of Directors was concluded.

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

Respectfully submitted,

Warren J. Marwedel, Acting Recording Secretary
Signed

Harold K. Watson, Secretary

[15939]

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

Held at the offices of
Locke Lord Bissell & Liddell LLP
2800 JP Morgan Chase Tower
600 Travis St.
Houston, Texas

On
Friday, November 12, 2010

At
9:00 a.m.

The November 12, 2010 meeting was called to order by President Patrick J. Bonner at 9:00 a.m. In addition to President Bonner, the following officers were also present:

Robert G. Clyne, Second Vice President
Harold K. Watson, Secretary
William Robert Connor, III, Treasurer
David J. Farrell, Jr., Membership Secretary
Warren J. Marwedel, Immediate Past President

The following directors were also present:

Barbara L. Holland
Joshua S. Force
Bradley A. Jackson
James F. Moseley, Jr.
Arthur J. "Skip" Volkle

Dennis Minichello
Thomas J. Muzyka
Francis X. Nolan, III
George W. Nowell

In addition, the following members and guests were present at the invitation of the President:

Chester D. Hooper (by telephone)
Michael K. Bell
Joann Zawitoski

SECRETARY'S REPORT

Upon motion duly made and seconded, the minutes of the July 24, 2010 meeting of the Board of Directors were unanimously approved and accepted.

TREASURER'S REPORT

Mr. Connor delivered the Treasurer's report. As of November 8, 2010, the Association had approximately \$466,798.55 in cash and investments. This will be reduced when the invoice for the directory is received, which will be approximately \$40,000.

Dues delinquency remains high. Approximately \$42,000 of dues is one year in arrears, \$23,000 is two years in arrears, \$32,000 is three years in arrears, and \$37,000 is four years in arrears. A letter will be written to members whose dues are three and four years in arrears, informing them that their membership will be terminated on January 1, 2011 if their dues are not paid. Letters have been written to members whose dues were one or two years in arrears, and this resulted in significant payment of back dues.

Mr. Connor reported that the audit has been completed. The cost will be somewhat more than \$20,000, and Messrs. Connor and Clyne will explore whether other accountants might be less expensive.

The auditors have raised questions about the lack of control by officers and the Board over the convention accounts. On motion duly made and seconded, the Board passed a resolution that the signatories on the convention accounts be changed to correspond with the Association's regular accounts.

The conflict of interest forms have been circulated to the Board to be executed and returned. The Code of Ethics will be revised and circulated.

On motion duly made and seconded, the Treasurer's report was approved.

MEMBERSHIP SECRETARY

Mr. Farrell delivered the Membership Secretary's report. The Association had an outstanding increase in Proctor and Associate applications attributable to President Bonner's email soliciting applications and the targeting of Houston and New Orleans firms. Ten applications for Proctor status were received, versus four in the fall of 2008 and four in the fall of 2009, and 50 applications for Associate membership were received versus 12 in the fall of 2009 and 18 in the fall of 2008.

The following applications for Proctor membership have been received and approved by the Committee on Proctor Admissions:

Rear Admiral William Baumgartner, Miami
Conte Cicala, San Francisco
Vincent F. Corteselli, New York
Lewis E. Henderson, Sugar Land, Texas
Patrick F. Lennon, South Port, Connecticut
John H. Musser, New Orleans
Andrew B. Saunders, Boston
Christina K. Schovajsa, Houston
Jonathan W. Thames, Walnut Creek, California
Michael D. Williams, Houston

In addition, the following applications for Non-Lawyer membership have been received and approved by the Committee on Non-Lawyer Nominations:

Fiona Dhurjon-Singh, New York
Austin L. Dooley, Ph.D, City Island, New York
Edward C. Fleureton, New York

Gavin O'Hare, Annapolis
Ghulam M. Suhrawardi, Parlin, New Jersey

In addition, the following applications for other classes of membership have been received:

Academic

Capt. Tuuli Messer-Bookman, Vallejo, CA

Associate

Jonathan C. Anderson, Sugar Land, Texas
James A. Babst, New Orleans
David M. Bates, Houston
Robert M. Browning, Houston
Blair H. Burnside, Sugar Land, Texas
Danielle Rinkoff Carlson, Sugar Land, Texas
Charisse Coleman, Houston, Texas
Rachel A. de Cordova, Houston, Texas
Emile J. Dreuil, III, New Orleans
Peter Economou (Reinstatement), Piraeus, Greece
Brian P. R. Eisenhower, New York
Erasmia M. Gardner, Sugar Land, Texas
John S. Gray, Houston
Michael A. Harowski, New Orleans
Justin M. Heilig, New York
Molly J. Henry, Seattle
Lori P. Hopkins, Baltimore
Jay T. Huffman, Houston
Adam Jay Jaffee, Camarillo, California
Paris K. Kallas, Seattle
Lauren E. Komsa, New York
Sharla Manglitz, Ludington, Michigan
Marcus C. Matthews, Houston
Armand P. Mele, New York
Nicholas A. Morrow, Houston
Perry J. Nagle, Milwaukee

Adam A. Nagorski, New York
John C. Partridge, Houston
Colleen E. Patterson, New York
Brian T. Peel, Sugar Land, Texas
Jason C. Petty, Houston, Texas
Mark R. Pharr, III, Lafayette, Louisiana
Richard Preston, Houston
Ryan A. Puttick, New York
Christine R. Raborn, Houston
Elizabeth M. Reza, Houston
Carlos Luis Lorenzo Roain, Aguada, Puerto Rico
John L. Robert, III, New Orleans
Lindsay A. Sakal, Basking Ridge, New Jersey
Nelson Skyler, Houston
John R. Stevenson, New York
Russell R. Stewart, Panama City, Florida
James M. Thompson, Houston
Joseph D. Turano, New York
Nancy Walseth, Portland, Oregon
Bin Wang, New York
Alison M. Weir, New Haven, Connecticut
Carrie Weitinger, Houston
Lauren Wygant Woodard, Houston
Patrick H. Yancey, Houma, Louisiana

Law Student

Michael Arthur, Tulane Law School
Kevin Baldwin, Tulane Law School
Douglas Bagwell, Tulane Law School
Nicholas Campbell, Tulane Law School
Michael Crain, Tulane Law School
Aldrich C. Del Rosario, Tulane Law School
Hamsa Devineni, Tulane Law School
Mark DiCicco, Tulane Law School
Aneliya Dobрева, Loyola University School of Law
Michael Fasel, California Western School of Law
Samuel Fuller, Tulane Law School

Brooke Grant, Tulane Law School
Jeremy Greenwood, Tulane Law School
Carlos Ruiz Hernandez, Tulane University Law School
Jonathan A. Hirsch, Tulane Law School
Rebecca Lasoski, Tulane University Law School
Hojin Lee, Tulane Law School
Ling Li, Tulane Law School
Christopher Liuzza, Tulane Law School
Melanie Mariotti,
Charles Marts, Tulane Law School
Mark Melasky, Tulane Law School
Andrew Miner, Tulane Law School
Nathan Orf, Tulane Law School
Brittany Orlando, St. Thomas University School of Law
Cristina Piechocki, Tulane Law School
Jarrod Rainey, Tulane Law School
Charles Rothermel, Tulane Law School
Joe R. Savoie, Texas Tech School of Law
Michael E. Streich, University of Houston School of Law
Kristen L. Stringer, St. Thomas University School of Law
Joel Talley, Tulane Law School
Zachary Van Vactor, Tulane Law School
David A. Villarreal, St. Thomas University School of Law
Paige Young, Tulane Law School

On motion duly made and seconded, these applications for membership were approved.

Mr. Farrell regretfully reported the deaths of the following members since the Portland, Oregon meeting:

George W. Ashford, Jr., of Kailua, Hawaii; Proctor: elected 1971
Thomas A. Clure, of Duluth, Minnesota; Life Member: elected 1967
Peter H. Ghee, of New York, Life Member: elected 1960
Paul D. Hardy, of Clearwater, Florida; Life Member: elected 1964
Dennis J. Lindsay, of Portland, Oregon; Life Member: elected 1954
Prof. Jo Desha Lucas, of Chicago, Academic: elected 1978

Norman A. Peloquin, II, of Providence, Rhode Island; Proctor: elected 1991
 Hon. Philip C. Wilkins, of Sacramento, California; Judicial: elected 1970
 Prof. Gabriel Wilner, of Athens, Georgia; Academic: elected 1973

The membership of the Association is now 3137, consisting of the following categories of members:

Proctor	1056
Associate (more than five years)	1136
Associate (less than five years)	147
Non-lawyer	170
Academic (more than five years)	36
Academic (less than five years)	2
Law student	114
Honorary	4
Judicial	131
Ex-officio	13
Life (Proctor)	298
Life (Non-lawyer)	12
Life (Judicial)	15
Life (Academic)	3
Total	3137 (2661 dues paying, 476 non-dues paying)

Mr. Farrell presented an amendment to By-Law 203 presented by First Vice-President Parrish, which reads as follows:

By-Law 203. Eligibility for Proctor Membership

An Associate Lawyer or Academic member who has been a member of the Association for four years, may apply for Proctor membership.

An applicant for Proctor membership shall file with the Membership Secretary an application on a form provided by the Membership Secretary and shall furnish to the Membership Secretary satisfactory evidence of experience and qualifications as required. Each application shall be supported in writing by two Proctor members of the Association, neither of whom shall be associated with the applicant in the practice or teaching of law.

Upon recommendation of the Committee on Proctor Admissions, or in the Board of Directors' discretion, the Board of Directors may waive the four-year requirement, if an applicant is otherwise qualified for Proctor membership.

On motion duly made and seconded, this By-Law amendment was approved.

Mr. Farrell reported that many law students had not been paying their dues, but that this was largely attributable to there being a problem with email addresses that has now been corrected.

On motion duly made and seconded, the Membership Secretary's report was approved.

ASSOCIATION MANAGEMENT

Website

President Bonner reported that Doug Petco is retiring, and wants Rob-in Becker to take over PC Solutions. President Bonner asked Past Presidents Burrell and Marwedel, First Vice President Parrish and Second Vice President Clyne to investigate how best to go forward in this regard.

First Vice President Parrish, Marc Marling and the Website and Technology Committee have been asked to explore improvements or replacement of the website, but it was agreed that this should await a determination on how to deal with the changes at PC Solutions.

BOARD SUBCOMMITTEES

Meetings

President Bonner reported that Lars Forsberg is now at Reed Smith, and has indicated that his firm has sufficient conference room space to host all the committee meetings at the May meeting. President Bonner has asked the committee chairs to advise the Board how having meetings in midtown is affecting attendance, and any decisions regarding scheduling committee meetings should await receipt of this information.

BOARD REPORTS AND ACTIONS

Amicus Requests

President Bonner reported that the Association had received one request for an amicus curiae brief in a case styled *Stacy v. Rederiet Otto Danielsen, A. S., et al.*, 609 F.3d 1033 (9th Cir. 2010). A vote will be held the week following the meeting.

Houston meeting

Mr. Bell reported that approximately 280 people had registered for the meeting, of whom 175 are coming from out of town. This is approximately 75 more than had been anticipated. In this regard, Mr. Bell reported that it has been helpful to have the meeting coincide with the University of Texas Admiralty Law Seminar.

Mr. Bell also reported that there has been broad financial support from the local maritime bar, vendors and the maritime industry that will probably exceed the cost of the meeting. Any surplus could either be

returned on a pro rata basis, or donors could be asked if they wanted to donate their pro rata share of the surplus to charity.

Hawaii meeting

Ms. Zawitoski reported on arrangements for the meeting to be held in Hawaii in December 2011. The Australian MLA will be joining us for the meeting. The tentative schedule calls for sports events to take place on Friday, December 2, with committee meetings on Saturday, and CLE on Sunday and Monday. There will be a welcoming reception on Saturday, and a “dry snacks” reception on Monday, and the General Meeting and dinner dance will take place on Tuesday, December 6. Pearl Harbor commemorative activities will take place early on Wednesday, December 7. The arrangements committee is working on sponsorships, and hopes to keep the registration fee lower than for past meetings.

Gray Staring Insurance project

President Bonner has received a proposal from Past President Graydon Staring for a project to prepare an authoritative paper defining “marine insurance.” Mr. Bonner announced that he was referring this to the Committee on Marine Insurance and General Average with instructions to form a subcommittee to study the issue.

NCCUSL Effort on state registration of vessels

Mr. Nolan reported that the National Conference of Commissioners on Uniform State Laws and the United States Coast Guard have formed a working group to study the rationalization of state and federal laws regarding registration of vessels.

Employment of Don O’Hare

The Board discussed a proposal from Mr. Don O’Hare that he be employed as a consultant to assist the Association in making its views known on legislative matters. There was a general consensus not to retain Mr. O’Hare in that it might be construed as involving the Association in lobbying. It was further felt that there were members of the As-

sociation that had significant contacts in Washington who could assist the Association as needed.

Appointment of Captain Steve Poulin

President Bonner announced that Captain Steve Poulin has been named as head of the Coast Guard's Office of Maritime and International Law, and will be the principal liaison between the Coast Guard and the Association.

Documentation of fishing vessels

Mr. Farrell reported on efforts to amend 46 U.S.C. § 12102(5) (A). This statute created a trap for unwary vessel owners and mortgagees by providing that large fishing vessels that lost their fishery endorsement and did not apply for a new certificate of documentation within 15 days would be permanently ineligible for a fishery endorsement. In 2004, the Fisheries and Marine Finance Committees had sponsored a joint resolution to authorize the President of the Association to urge Congress to amend this statute, and this has now been accomplished.

Marine Transportation System (MTS) National Advisory Council

Mr. Farrell has been contacted by the Department of Transportation, requesting the MLA to appoint a representative to the Marine Transportation National Advisory Council.

Coast Guard Forum

President Bonner reported that the Coast Guard Forum is to be continued. The membership will be canvassed to determine appropriate issues to present to the Coast Guard.

[15950]

CMI

President Bonner reported on ongoing discussions with the CMI on a variety of issues, including dues and the possibility of holding a CMI Conference in New York.

Respectfully submitted,

Harold K. Watson, Secretary