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May 6, 2011

THE MARITIME LAW ASSOCIATION
OF THE UNITED STATES

SPRING MEETING - MAY 6, 2011

PRESENT:

PATRICK J. BONNER
ROBERT B. PARRISH
ROBERT G. CLYNE
HAROLD K. WATSON
DAVID J. FARRELL, JR.
WILLIAM R. CONNOR
WARREN J. MARWEDEL

And the following 206 members and guests:

William R. Acomb	Julie Brouhard
Donald C. Adams	Jim Brown
Julia Adams	Phillip A. Buhler
Charles B. Anderson	Robert Burger
Olaf Aprans	Raymond J. Burke, Jr.
Paul B. Arenas	Lizabeth L. Burrell
Todd M. Baiad	Paul E. Calvesbert
Anthony Barker	Christopher Carey
Francis J. Barry, Jr.	Richard Carney
James W. Bartlett, III	Kathleen Carr
Joe Basenberg	William E. Cassidy
Michael Bell	A.T. Chenault
William E. Bell	Conte Cicala
F. Nash Bilisoly	Robert G. Clyne
Richard C. Binzley	Mark T. Coberly
Jorge F. Blasini	Michael Marks Cohen
Forrest Booth	William H. Collier, Jr.
Richard A. Branca	Robert Collins
Lawrence B. Brennan	William R. Connor, III
James Brockmeyer	James Patrick Cooney
Philip Brooks, Jr.	Attilo Costabel

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Paxton N. Crew
John Crowley
John C. Daidula
Ed Dangler
Christopher O. Davis
Douglas Davis
Frank DeGiulio
Charles DeLeo
Christopher Dillon
Susan Dorgan
William Dorsey
John Farmer
Boriana Farrar
Anthony R. Filiato
Robert B. Fisher, Jr.
Vincent J. Foley
Joshua S. Force
Lars Forsberg
Peter F. Frost
Kenneth Gelpi
Gene B. George
Alexander Giles
Robert Glenn, Jr.
Glenn G. Goodier
William Graffam
Alice Gram
Joe Grasso
Donald C. Greenman
Damon Hartley
Kevin J. Hartmann
Jeremy Harwood
Raymond P. Hayden
Keith W. Heard
R. Monica Hennessy
William Hewig
Julius H. Hines
Barbara Holland
Mary Holmesly
Chester D. Hooper
Anne D. Hopkins
Robert Hopkins
Bradley A. Jackson
Marshall Keating
Andrew D. Kehagiaras

Allan R. Kelley
Terence Kenneally
John D. Kimball
Bruce A. King
Robert Klawetter
Jean Knudsen
Matthew Koch
Lynn Krieger
Kevin J. LaVie
Dwight LeBlanc III
J. Dwight LeBlanc, Jr.
Edward LeBreton
John Lenker
Richard M. Leslie
Ray Letulle
John J. Levy
Ling Li
John T. Lillis, Jr.
Ron L. Little
Todd Lochner
Geoffrey A. Losee
Henry C. Lucas, III
Carl E. Lundin
Sam Mandelbaum
Sharla Manglitz
Janet Marshall
David W. Martowski
Warren Marwedel
Robert Marzik
Michael McCauley
John H. McConnell
Marion E. McDaniel, Jr.
Eugene J. McDonald
Kevin L. McGee
Mike McGlone
Declan McKeever
Peter A. McLaughlan
Arthur Mead
David Meyer
William B. Milliken
Dennis Minichello
Jeffrey Moller
James F. Moseley
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Tom Muzyka
Carl R. Nelson
Mark E. Newcomb
Francis X. Nolan, III
Michael J. Northmore
George W. Nowell
Robert P. O'Brien
Kevin O'Donovan
Michael D. O'Keefe
Richard Ottinger
Robert Peltz
Dabney W. Pettus
Gregory W. Poulos
Edward Powers
Katharina Powers
Anthony J. Pruzinsky
Salvador J. Pusateri
Lennard Rambusch
Eduardo Real
Stephen Rible
J. Ramon Rivera-Morales
William J. Riviere
Edwin D. Robb
Cathy S. Roberts
C. Kent Roberts
Antonio J. Rodriguez
Manolo Rodriguez-Bird
George Rountree, III
Thomas S. Rue
Thomas A. Russell
John Ryan
Michael J. Ryan
Charles E. Schmidt
Christina Schovajsa
Gordon D. Schreck
Janis G. Schulmeisters
Dennis Seider
David J. Sharpe
David F. Sipple
Peter Skoufalos
Peter Sloss
David Smith
Kevin Beauchamp Smith
Steven L. Snell

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Jonathan Spencer
Gordon Starling
Michael Stern
William T. Storz
Michael F. Sturley
Norman Sullivan
Michael L. Swain
Paul Tecklenburg
Kevin Thornton
Peter B. Tompkins
Charlotte Valentin
David N. Ventker
Kenneth H. Volk
Arthur Volkle
David R. Walker
Joseph A. Walsh, II
Patrick Ward
Jared Washkowitz
Deborah C. Waters
Alison Weir
William H. Welte
Stephen F. White
James F. Whitehead
M. Hamilton Whitman, Jr.
Andrew C. Wilson
Erich Wise
John M. Woods
Robert J. Zapf
Pamela Zarlingo
JoAnne Zawitoski

and the following nine guests:

Kirby Aarsheim
Don Beaumont
Tim Bergere
Jeremy Bolger
Jason Fink
Karl Gambrii
Jon Milan
Lt. Col. Howard W. Roth
Kelley Tiffany

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PROCEEDINGS

MR. BONNER: Good morning, members and guests. I would like to start the meeting and welcome you all to New York. Most of you have been here for a few days and attended many of our committee meetings.

This is an uncharacteristic day for an MLA meeting because it's sunny outside. The last few days were like we usually have, rainy.

I would like to vary things a little bit and start with the officers' reports and then introduce some of our honored guests who may be late in arriving. I would like to start off with the secretary's report. Hal.

MR. WATSON: Thank you, Mr. President. I would like to start by expressing our appreciation to Mark Brown who is our court reporter here this morning. He works with Tommy Crites in Savannah and again this year, they are providing their services free of charge to the Association which obviously is something we appreciate greatly. They have some materials on that table in the corner of the room over there. It would be nice if some of you would show your appreciation by using their services if possible.

With regard to the court reporter, I would appreciate it if you come up to speak and make a report, please give your card to the court reporter so he can identify you in the Proceedings. Also, if you haven't signed in, please do that so we can have a good record of who's here today.

The Board of Directors of the Association has met twice since our last general meeting in Houston. We met yesterday here in New York and we met in March in conjunction with the Tulane Admiralty Law Institute.

A lot has been going on in the Association. One, we're getting ready to have another MLA Report come out. It will be mailed in conjunction with the Proceedings from the Fall Meeting. We are trying to have those two documents go out at the same time because it saves us quite a bit of money to have one mailing rather than two.

I also want to thank Chet Hooper and David Nourse who are the editors of MLA Report; they are doing a wonderful job. And I'd also like to thank three of our young lawyers, Art Severance, Asher Chancey, and Patrick Ward who have volunteered to assist in the formal editing of the MLA Report.

I would ask if you are a committee chairman and you have a newsletter, please submit that to Chet and David so they can review it for possible inclusion in the MLA Report, and if you have an article that you would like to have published, I'm sure they would be glad to see that as well.

One thing that has been going on for the last couple years is we are attempting to get all the resolutions that have been passed by the Association in its 112 years -- I think that's right -- history, and Phil Berns has been working with the Young Lawyers Committee. Alex Giles has been spearheading that along with Phil Berns and we are getting close to having that completed.

As we announced at the last meeting in Houston, we reorganized the committees of the Board of Directors and Rob Hopkins and Kim Kearney of the Meetings Committee did a study, did a study of the way we conduct our committee meetings here in New York. As you know, there was a time when we used to have all of the meetings downtown but many of the firms that were downtown have moved up to midtown, and so we have been trying to figure out where is the best locale to hold our committee meetings. The Meetings Committee of the Board looked into this, did an exhaustive study and came up with a number of recommendations. One thing we are going to try and do in the future is perhaps have one day of meetings midtown and one day of meetings downtown so that people won't have to travel back and forth between the meetings.

The Meetings Committee also handed along some comments about the Houston meeting. It was very well-received. The only real problem we experienced at the Houston meeting last fall was that some of the conference rooms were too small for the number of attendees. It's very hard, particularly at away meetings, to know just how many people are likely to show up at a meeting. I would ask the committee chairs to try and keep tabs of that for planning purposes in the future.

There is a Maritime Law Committee of the Board and it is studying ways in which the Maritime Law Association can fulfill its mission of improving the maritime law and increasing the uniformity of the maritime law. Obviously the Maritime Law Association is not a lobbying organization but we are exploring ways that we can make it known to Congress and the judiciary that we are a resource to help with education and help them do their jobs better.

The Association gets approached from time to time by organizations that want to contact you and we have a strict policy to protect our members' privacy, so we do not give out people's email addresses willy-nilly. For example, we had an approach from Tradewinds to make a free offer of their publication and we are going to pass that on to the membership and so you will be seeing that shortly.

There was a suggestion made to the Board that we have a speaker at the Friday night dinner and I think the Board was pretty much unanimous in thinking that this was not a good idea.

(Laughter)

MR. WATSON: That it would interfere with the social function of that dinner.

Finally, the Tulane Law Review is now available on Kindle. The next two issues they will be publishing will be, of course, the Admiralty Law Institute, and the issue before that is one dealing the DEEPWATER HORIZON, the issues coming out of the DEEPWATER HORIZON, so if any of you are interested in obtaining those articles on Kindle, I think you can do it by going to Tulane Law School's website.

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

MR. BONNER: Is there a second?

MEMBERS: Second.

MR. BONNER: All in favor?

MEMBERS: Aye.

MR. BONNER: Motion carried.

Actually, there have been many complaints over the years that it takes a long time for members to go from the cocktail hour to the dinner and this slows things down considerably and then the dinner is delayed. There was a suggestion that we have a Supreme Court Justice speak and try to get the members to go to the table quicker. Well, we didn't think that was such a hot idea. Mike Bell, you will be happy to hear the only criticism of the Houston meeting was that it was too popular.

Let me call for the Treasurer's report, Bob Connor.

MR. CONNOR: Thank you, Mr. President. Good morning. I am happy to report that we are on target with our revenue and expenses with one exception, approximately 700 members have neglected to send us a check for their 2011 dues. I know probably the people in this room do not fall in that category; it's the ones who are sitting in their office this morning billing. If you have partners or associates, you might remind them we will be contacting those 700 people, the members of the Board, either through email or phone calls to try to give them a reminder that the dues statements were sent out in January, and it is time that we get paid.

As I said though, the rest of the finances are in good order. We are on target with our expenses.

I do have one thing to report. Today is a very special day. Like Bloomingdale's and Macy's, the MLA is having a one-day tie sale. We have available at the desk and I happen to have the blue ones here but there are red ones, long-form regular ties, bow ties, the Jim Moseley fashion, in red and blue. Today only they are available, cash or check, or if we don't happen to have what you want, you can order it, \$20 instead of \$25, so I urge you to get them before they are gone. These are classic ties, they are silk. They are not genuine polyester, they are silk; somewhat stain resistant for those who spill their soup. Ladies, I'm sorry, we don't have scarves or whatever. The next around we will think about that, but at the desk outside you can get your ties, and that concludes my report, Mr. President.

MR. BONNER: And you move to have it adopted?

MR. CONNOR: I move to have it adopted.

MR. BONNER: Second?

MEMBERS: Second.

MR. BONNER: All in favor?

MEMBERS: Aye.

MR. BONNER: Motion carries. Bob has the hardest job in the MLA, I'm looking over one shoulder, Bob Clyne is looking over the other shoulder but he has done a fabulous job.

I would like to call on David for the Membership Secretary's Report.

MR. FARRELL: Thank you, Mr. President. Good morning. I'm pleased to report that since our Houston meeting last fall, your Board has approved as an honorary member Retired Coast Guard Admiral Thad Allen of Hurricane Katrina, DEEPWATER HORIZON, and MLA Hilton Head fame.

The Board also has on the unanimous recommendation of the Committee on Proctor Admissions approved six new Proctors in admiralty. They are Eli Bjornoy of Seattle; James N. Hurley of Miami; Sandra M. Kelly of Cleveland; William E. Lakis of Ramsey, New Jersey; Arthur A. Severance of Los Angeles; and Deborah C. Waters of Norfolk.

There are also four new non-lawyer members, Claudio N. Crivici of Amityville; Chris Dye of Houston; Mindy Nelson of New York; and Carole M. Siefkes of Waukesha, Wisconsin.

As well, we have added 36 associate lawyers, one judicial, two academic, and 17 new law student members.

But I regret to advise that since our Houston meeting, 16 of our long time members have passed away. They are Francis X. Byrn of New

York; Professor T.A. Clingan of Coral Gables; Judge Howell Cobb of Beaumont; Edward F. Cummerford of Poway, California; Stephen H. Fields of White Plains; Joseph A. Goetzke of Fort Meade; Charles C. Goodenough of Deltona, Florida; Andrew J. Goldstein of Flemington, New Jersey; Judge Alexander T. Howard of Mobile; David C. Nolan of Walnut Creek, California; Judge Wendell C. Radford of Beaumont; Michael A. Snyder of Palo Heights, Illinois; George L. Spyridon of Metairie; John H. Sweeney of Duxbury, Massachusetts; Robert P. Whelan of New York; and J. Barbee Winston of New Orleans. Please rise for a moment of silence in their memory. Thank you.

As of today, our membership totals 2,808 strong but that is down somewhat from a year ago as a result of some recent housecleaning we did on membership rolls due to serial nonpayment of dues, so I urge you as always to maintain a good lookout for new members in your locales and urge them to submit applications and recommendation letters to me by email; it's pretty easy.

President Bonner's active leadership last fall resulted in excellence success in doing just that as we obtained a lot of new members in the Houston region and I'm sure that there are other areas around the country where we can increase our membership. So I put out a challenge to all the members assembled here today: over the summer, please try to recruit at least one new member so that I can report back to you in Hawaii that we are continuing to add vibrant new lawyers to our already most esteemed membership. That concludes my report; I move it to adoption.

MR. BONNER: Is there a second?

MEMBERS: Second.

MR. BONNER: All in favor?

MEMBERS: Aye.

MR. BONNER: Motion carried. Thank you very much, Dave.

Moving on, there are chairs up here if anybody would want to come up and sit down, feel free to do so.

I would like to recognize a few of our distinguished guests starting with Karl-Johan Gombrii who is president of the CMI sitting in the first row. Jeremy Bolger, president of the Canadian Maritime Law Association sitting over here. Captain Steve Poulin, who is our contact point man with the Coast Guard Office of Maritime and International Law. And I don't know if Austin Dooley -- Dr. Austin Dooley is here -- no, I haven't seen him -- President of the SMA.

In addition to these honored guests, we will have a few additional guests tonight, please come up and meet them, talk to them, including Admiral Chuck Michel who is legal aide to the Secretary of Homeland Security; Denise Krepp, Chief Counsel of the Maritime Administration; and Larry Geronimo who is president of MICA.

At this point in the meeting, we usually give out certificates to outgoing board members and to committee chairs. The first one I would like to present is to Keith Heard who has been our BIMCO representative for the last seven years and he did such a good job that they asked that he stay on for a few extra months for the meeting coming up in Canada. Keith, thank you very much for all your work.

(Applause)

MR. BONNER: And we have four outgoing Board members, Rob Hopkins, Frank DeGiulio, Barbara Holland and Kim Kearney who is in trial right now, I would like them to come up so I can present their certificates to them.

As Hal said, we did it a little differently this year and we made them work and they did a great job. We divided the Board up into three groups, Meetings, Membership and Law, and they were the group working on meetings and they produced some good reports that are going to help the Association going forward.

I would also like to add my thanks to Chet Hooper and David Nourse for the wonderful MLA Report that they put out and to the three young lawyers who assisted them in editing it.

So we start with the committees then. First would be Arbitration, Keith Heard, followed by Carriage of Goods.

MR. HEARD: Thank you, Mr. President. The Committee on Arbitration and Alternative Dispute Resolution had a luncheon meeting yesterday at the offices of Seward & Kissel downtown. 47 members and guests of the committee attended in person, along with two more over the speaker phone.

We heard two major presentations. Dr. Jan Backhaus of the German law firm Dabelstein & Passehl presented a PowerPoint presentation on the enforcement of United States arbitration awards in Germany, focusing primarily on German court procedures and rules of law that were applied to effectuate the Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

We next heard two speakers discuss aspects of English and American law on piracy and charter parties. Lindsay East from the London office of Reed Smith explained the position under English law including the case of the *SALDANHA* in which an English court confirmed an arbitrator's decision that a vessel on time charter remained on hire even during the time it was in possession of Somali pirates. Jay Pare of Nourse and Bowles in New York explained the position under American law and offered his opinions as to the likely results in areas where U.S. law was unsettled.

All of the presenters did a fine job and we thank them for their time and effort.

I advised the committee on several arbitration-related events in New York in the weeks ahead and I'd like to share that information with you.

Next week, the International Section of the New York State Bar Association will put on something called Global Law Week in New York with programs on international contract drafting, cross border litigation and dispute resolution and latest developments in international arbitration. The week will conclude in this building next Friday with the presentations of a New York State Bar Association report on New York Law as an international standard.

On June 13th, the American Arbitration Association will present an all-day program at the Marriott Marquis Hotel in Times Square entitled Four Roundtables in Times Square, Putting the Spotlight on International Arbitration.

The following two days, June 14th and 15th, Fordham Law School will host its sixth annual Conference on International Arbitration and Mediation.

If you are interested in learning more about any of these events, go to the website of the host organizations or send me an email. My email address, like yours, is on the Association's website.

Finally, we distributed a 27-page newsletter at our meeting summarizing court cases dealing with maritime and non-maritime issues of arbitration. I have put a few copies on the table outside and I will post the newsletter on our committee's section of the MLA website. Mr. President, that concludes my report.

MR. BONNER: Thank you, Keith. Carriage of Goods to be followed by Cruise Lines and Passenger Ships. Susan Dorgan.

MS. DORGAN: Good morning, Mr. President, members and guests. Ed Radzik couldn't make it today and he asked me to fill in for him. Ed wishes he was here.

We had the meeting on Wednesday for the Carriage of Goods downtown in the offices of Chartis Insurance. We had approximately 45 people attend. We did offer one New York CLE credit to those who were present.

We had two wonderful speakers. We had Dr. Remiorz from the Hamburg law firm of Dabelstein & Passehl who gave a presentation on the benefits of Germany as a venue for cargo interests in light of recent decisions that were rendered by the German courts as to the freight forwarder standard terms and conditions that they have in Germany and how they interplay with certain conventions. And where it ended up was that the limitations provided in the Montreal protocol convention was thrown out in light of the German freight forwarder standard terms and conditions as the court interpreted that to be a waiver that the freight-

forwarders agreed to, and, therefore, the convention limitation would not apply, so that was a rather interesting perspective that many of us didn't know about.

He also spoke about that Germany right now is considering the revision of the shipping laws and that it may be as early as this summer that those revised shipping laws will go into place. Contained in those revised shipping laws are conflicts with the Rotterdam Rules. How that's going to play out and how the German courts are going to go forward with that hopefully will be decided when the Rotterdam Rules are ratified by Germany and the other countries.

Our next speaker was Anthony Pruzinsky who gave us a wonderful presentation on some of the legal issues that were presented in the *DG HARMONY* case which has finally been resolved. One of the issues that caused a lot of excitement was how the court handled indemnification with respect to some of the parties, and also Professor Sweeney brought up an interesting point as to what was the strategy that was used by the different litigants involved in the case, and we had a nice to and fro with some of the other parties and the people who were in the audience who had participated in the *DG HARMONY* case, so we thank Anthony for that presentation.

Both of these papers will be available on the Carriage of Goods website so that you can peruse those at your leisure.

Lastly, Chet Hooper was kind enough and gracious enough to speak about the status of the Rotterdam Rules. He contacted Steve Miller over at the U.S. Department of State who advised that they hoped to have the transmittal package to the White House by Labor Day. We also learned from Chet that the joint letter by the World Shipping Council, the MLA and also Federal Express that they sent a letter asking Under Secretary Hormats for Energy, Economics and Agricultural Affairs to please help expedite the ratification of the Rotterdam Rules.

Lastly, we heard that Spain has ratified the rules and that Denmark and The Netherlands are in the process of having the ratification put through in those countries. That concludes my report.

MR. BONNER: Thank you very much, Susan. I don't know if the letter is posted on our website yet. If not, we will get it up there so everybody can see it. Next would be Bob Peltz, Cruise Lines, followed by Marine Torts and Casualties, Christina Schovajsa.

MR. PELTZ: Good morning. The Cruise Line Committee held their meeting on Thursday at the Freehill Hogan offices and I'm pleased to indicate that we had 35 members in attendance from 12 states and one province of Canada.

Our meeting focused around two presentations. One was given by David Horr, who is one of the preeminent defense attorneys in Miami. It involved ship design issues as they relate to cruise ship claims. This is a very hot topic in the cruise industry at the moment. I gave a presentation involving ship board releases for activities that are occurring on cruise ships. There are papers associated with each of the presentations that can be found in our newsletter.

I left several copies of the newsletter by the door. It will also be published on our website. I'm pleased to say that the newsletter is published three times a year. It generally includes several articles of interest to the cruise line industry as well as the discussion of new cases. Thank you very much.

MR. BONNER: Thank you, Bob. So it is Maritime Torts and Casualties, Christina Schovajsa, to be followed by Fisheries, Kevin Thornton.

MS. SCHOVAJSA: Thank you, Mr. President. Our chair, Lisa Reeves, couldn't be present today and asked if I would give her report.

The Marine Torts and Casualties Committee met yesterday from 2 to 3:30 p.m. at the offices of Carter Ledyard. Considering our meeting's proximity in time and location to the President's visit to Ground Zero, we had a very good turnout with 70 members attending in person and at least five members participating by telephone.

We began with a one-hour CLE presentation on *CSX v. McBride*, an FELA case now pending before the U.S. Supreme Court. We heard from Charlie De Leo of Miami and Paul Hofmann of New York. The

issue in the case is the standard of causation to be applied in FELA cases and by extension to Jones Act claims. The three members of the Court have previously expressed the opinion that the proximate cause standard should be applied as opposed to the featherweight standard applied by most lower courts. Argument took place at the end of March and we expect a decision before the end of the session.

We also discussed recent cases regarding the enforcement of arbitration clauses in the context of seamen's employment, particularly in the cruise industry.

Finally, we had an excellent discussion of the DEEPWATER HORIZON limitation proceedings lead by Debbie Waters of Norfolk as well as Peter Frost from the Department of Justice.

Newsletters on recent developments in Jones Act, personal injury, and limitation of liability were distributed and will be posted on the website.

The Chair wishes to thank Brian McEwing of Cape May, New Jersey, and Laszlo Szabo of New York for the injury newsletter and Eastham Watson for the limitation newsletter. That concludes my report.

MR. BONNER: Thank you very much, Christina. One thing that you should keep in mind is that many of the committee meetings offer free CLE on the topics that interest members. We will have Fisheries, Kevin Thornton, to be followed by Inland Waters and Towing.

MR. THORNTON: Good morning, Mr. President, officers, board members, distinguished guests and members of the MLA. My name is Kevin Thornton and I am the chairman of the Fisheries Committee.

We had our meeting yesterday from 11:00 to 1:00 p.m. at the Reed Smith offices. I would like to thank the Reed Smith firm and Lars Forsberg for their hospitality. They lavished a lunch on us and also served what must be among the best chocolate chip cookies in New York City, so many thanks for that.

As I have been doing, I tried to start the meeting with an opportunity for the members to introduce themselves. We had 24 people in total participate which is, I'm proud to say, pretty good. We only have about 44 members. We are a small but vital and vigorous committee and we had 24 people, 16 in person and eight by telephone and that has worked out particularly well for us. And in the introduction portion, I just ask the members to explain just for a minute who they are and what they do. It's a good opportunity for networking and to learn about our members and it's helpful. We had two new members of the MLA who will join the committee and also I had the personal benefit of meeting one of the partners at Reed Smith, Jonathan Benner, who turns out to be a law school chum of a judge that I do a lot of business with, so it's going to give me an opportunity when I see that judge, I will resist the temptation to say what were you thinking about when you denied my motion for summary judgment and tell him about his law school and basketball chum, so it really is a good resource, so I do that and I encourage you to think about doing that.

We had a terrific program. I want to thank the people that worked with me and we put together a good program. We have Mark Coberly, the vice chair, and two co-secretaries, David Smith and Terry Kenneally, and we had with the assistance of Lieutenant -- jeez, I'm drawing a blank here -- we had the assistance of -- I will get back to it.

MR. BONNER: Kelley Tiffany.

MR. THORNTON: Kelley Tiffany. Boy, what a senior moment for such a young guy.

(Laughter)

MR. THORNTON: And she brought two other Coast Guard officers with her, Lieutenant Donohue, and our guest speaker was Steven Davies who is the Commander of the U.S. Coast Guard Cutter SAILFISH, and he gave a terrific PowerPoint presentation on their operations in marine safety and enforcement of fisheries laws out of the New York/New Jersey region, which is obviously of great interest to our group. We had a lively but friendly question and answer session that took up some time and we saw some really terrific pictures.

We then had a presentation by Bruce King from Seattle on the adoption of -- or the proposed adoption of Senate Bill 608 and House Resolution 1210 regarding no liens on fishing permits. That remains to be a hot topic, some people are for it, some are against it but it's always at the forefront.

We had a presentation by our committee member, Steve Ouellette. Steve gave an interesting report on the ongoing saga of NOAA and attempts to modify and amend and improve, hopefully, the regulatory process for enforcement and the imposition of sanctions, when appropriate, upon the commercial fishing industry. We have made some good progress with that. There has been some great cooperation between the Coast Guard, NOAA and the members of that industry.

We also had a report on fishing crew contracts by David Smith and we had another robust discussion and we might go through the official process of seeking maybe some support or endorsement from the MLA.

There is legislation proposed by congressmen and senators to try to introduce some flexibility in the Magnuson-Stevens Act. Ten-year cutoff deadlines are imposed which have a drastic impact upon your ability to harvest certain species. Some of that stuff makes sense, some of it is based upon bad science or good intentions but horrible results, so we will be, I think, making a formal presentation and a request for perhaps some MLA support.

We had a good presentation of current case law affecting the commercial fishing industry. Terry Kenneally worked on that and we thank him for that and that would conclude my report.

MR. BONNER: Thank you very much, Kevin. Inland Waters, David Ventker, to be followed by Phil Buhler, International Organizations.

MR. VENTKER: Mr. President, members, my name is David Ventker and I have the pleasure of being chairman of the Inland Waters and Ocean Towing Committee.

We met on Wednesday at 11:00 at the offices McAllister Towing Downtown. There were 25 members in attendance.

We received reports from Gene George who is chairman of the subcommittee on the Great Leaks and from Dave Farrell who is chairman of the subcommittee for America's Marine Highway, and also from Buck McAllister on legislative developments.

Gene George's written report is by the back door and I urge you to pick it up on the way out, and, he reported that issues regarding dredging in the Great Lakes are reaching crisis proportions. They have gotten to the point where cargo vessels are sailing three-quarters full or with more capacity because of the navigational waterways have silted in so much.

Apparently there are billions of dollars available in the trust fund for maintaining and dredging the channels. The Army Corps of Engineers is all in favor of doing the dredging, the trustees for the money won't let the money go, so that is a current and ongoing issue that is affecting shipping in the Great Lakes and we intend to follow that with Gene's help, to the extent that we can.

Buck McAllister presented an update on current legislation. He noted that the Department of Homeland Security has been circulating proposed regulations for the towing industry. These regulations have now been approved by the Department of Homeland Security, and it went to the OMB as of March 29th. The expectation is that by the end of June, they will be made available for public comment and that will start the public comment period, so for those of you who have clients in the towing business, you may want to follow the Federal Register announcements that come out at the end of June. We do not have and did not have available to us the current version, nobody has seen the version that has been sent to OMB. The expectation is that it was the last draft that was published and circulated in 2008.

Dave Farrell reported on the status of America's Marine Highway and we decided that we were going to put together a small working group to further discuss the issue out in Hawaii to see whether the committee should take any positions on lobbying the Association for taking any positions. Secretary LaHood from MARAD has issued a report. You know, he talks about the value of America's Marine Highway and the concept to relieve highway congestion, pollution, those kind of things. The issue is whether to spend money to advance the program.

There are, of course, job issues, economic issues and opponents from the trucking and highway industries who don't want money or business diverted from their interests, so that is something that the committee will be discussing further, and that, Mr. President, concludes my report.

MR. BONNER: Thank you very much, David. International Standards, Phillip Buhler, to be followed by Marine Ecology, Dennis Minichello.

MR. BUHLER: Mr. President, Members, the International Organizations Committee met yesterday, Thursday, at the offices of Holland & Knight and we thank them for their hospitality.

Our Chairman, Alan Van Praag, recently underwent surgery, and, therefore, he was unable to attend, but I'm pleased to report he is on the mend and will be back with us very shortly.

Twenty-five members were in attendance. We had presentations by two special guests. We were first honored by the presence of Karl-Johan Gombrii, President of the CMI, who provided us with an update on activities of the CMI. Their next meeting will be held in Oslo commencing on September 26. The first day will be in conjunction with the Norwegian MLA. Then on the 27th will be the assembly of that upcoming meeting.

The CMI's conference in Beijing will be held in October of 2012. Mr. Gombrii reported on plans and updates for activities that will be addressed at the October 2012 meeting in Beijing that will include an add-on in Shanghai. They have a working group on Arctic and Antarctic issues and a working group on cross boarder insolvencies chaired by Chris Davis. There will be a working group on salvage. It was reported that salvors, P&I clubs and owners will be presenting competing views of the Salvage Convention.

The Rotterdam Rules are still a hot topic, as are issues of judicial sale of vessels to ensure that sales are recognized in other jurisdictions. The Ports of Refuge Convention was submitted to the IMO but coastal states are still complaining and addressing issues of their concerns for coastal sovereignty.

We next received a presentation by Captain Stephen Poulin of the U.S. Coast Guard who has been very kind to address our committee in the past. He advised that the status of treaties is still a priority for the United States. He briefly addressed SUA Protocols.

He then reported on activities of the IMO Legal Committee. Among those recent activities were a proposed international convention on compensation for transboundary pollution from offshore installations, this of course driven by recent experience with the DEEPWATER HORIZON. There has been a proposal by Indonesia, some issues on the transborder development of offshore resources between Indonesia and Australia.

Fair treatment of seafarers was another topic, some arguing for increasing -- that there has been an increasing criminalization of seafarer activities which has been expressed as a concern. The United States' official position is taking issue with that, questioning that the criminalization and prosecution of seafarers has been justified where conducted.

Iran raised concerns about the denial of shore leave to crewmen allegedly based upon their religion but that issue did not move very far with the Legal Committee.

The next IMO Legal Committee meeting will be held in April of 2012. It will address improved security on cruise ships. There is a U.S. proposal to use U.S. law as a model and format for improving security of cruise ships particularly considering the piracy issues in the Indian Ocean.

In conjunction with that, Captain Poulin presented some details concerning the recent discussions about the issue of piracy. He reported that acts of piracy have been extending further into the Indian Ocean and at this time there appears to be no portion of the Indian Ocean that is free from the risk of piracy. He reported that incidents are up ten percent since last year and they have become much more violent including deaths of American citizens.

There are efforts to develop a legal code and to build capacity both to enforce the efforts against piracy and also to prosecute piracy. In conjunction with that, the United States is working with regional nations to develop a legal regime for comprehensive prosecution of apprehended pirates.

There was also a discussion of use of armed security on vessels and it was reported that vessels that have now taken on armed security have reported no successful pirate attacks. In conjunction with that, the United States proposed a maritime security directive and there were also proposals to create international standards for competence of armed security personnel to be posted on vessels.

After this presentation, the committee held some extensive discussions concerning the status of UNCLOS and the Limitation of Liability Convention as it might replace the 1851 Limitation of Liability Act. Mr. President, that concludes my report.

MR. BONNER: Thank you very much, Phil. Karl and John, did you want to add anything?

MR. KIMBALL: We are honored this morning to have Karl-Johan Gombrii with us and Karl wanted to give a word of welcome for the CMI and also just to speak briefly about some of the events that were just mentioned. Thank you.

MR. BONNER: John is chair of the CMI subcommittee, but I wanted to mention the excellent Healy lecture last night. You had some competition from the Young Lawyers, and the Propeller Club, but you still filled the hall and it was a very interesting discussion, very scholarly.

MR. GOMBRII: Thank you, John. Thank you, Mr. President, ladies and gentlemen. Since I became president of the CMI a little more than two years ago, I have been in relatively close contact with Warren Marwedel, Pat Bonner and recently also with Bob Parrish and Bob Clyne. We have been emailing, we have had telephone conferences and we have been meeting in various places where CMI have had events, lastly in Buenos Aires where CMI had a colloquium in October of last year.

It has been a very instructive and constructive dialogue. I have learned a lot. I think that a number of wrinkles have been ironed out, some misunderstandings have been clarified on both sides and I think we found out that the U.S. MLA and the CMI share some basic concerns, the most basic being how do we become more useful to our members. I have learned that the U.S. MLA over many years has had an extensive

consultation process with its members and I have been told about it, I have considered the reports and I have read the conclusions. We are now in the CMI in the process of having a similar consultation process with our members for the same purpose, to have them tell us how we become more useful to them.

I would also like to congratulate you on this spring meeting. I think any organization – any other organization would be envious of what has taken place here. I have been here for the better part of the week and I am very much impressed by the degree of activity, the degree of participation, the energy and the enthusiasm which is being displayed.

It is great to be here and I'm very grateful for having been asked to be here. Finally, as Phil said, we are having -- the next upcoming events in the CMI are the assembly and the events in Oslo in September this year and Beijing and Shanghai in 2012. You will be most welcome there and you are welcome to visit our website every day 24/7. Thank you very much.

MR. BONNER: Thank you very much, Karl, and as we said earlier --

(Applause)

MR. BONNER: -- we are honored that you chose to attend our spring meeting. Please come again. Marine Ecology to be followed by Marine Financing.

MR. MINICHELLO: Mr. President, officers, fellow members, the Committee on Marine Ecology and Maritime Criminal Law had two joint meetings along with the Committee on Regulation and Vessel Operations, Safety, Security and Navigation and the Government Counsel Committee. I am going to share the summaries of our two meetings, one held on Tuesday and one held on Wednesday, with Jeff Moller, who is the chair of the Committee on Regulation of Vessel Operations.

Mike Underhill who is the chair of the Government Counsel Committee unfortunately could not join us this morning, he sends his regrets. He is attending a hearing on the DEEPWATER HORIZON down in New Orleans on behalf of the government, so I know Mike would probably prefer to be here.

We had two meetings, the first meeting was held at Winston & Strawn and I want to thank Larry Kiern as our host of that meeting on Tuesday. We had a full agenda for that meeting. We had approximately 50 attendees, several by telephone. And our second meeting was held on Wednesday and we were hosted for that meeting by Vince Foley and Holland & Knight, so my thanks to them, and I also want to thank the United States Coast Guard. Admiral Kenney was kind enough to again ask his office to help us in setting up our meeting and we benefited greatly by the assistance of Captain Steve Poulin who gave us a wonderful presentation on piracy which Jeff is going to talk about, and we could not have lined up half of our speakers without the assistance of Lieutenant Kelley Tiffany, so I want to thank both of them, and also want to wish good luck and God's speed to Lieutenant Tiffany who is going to be off on a new assignment to Puerto Rico, I understand, so she will be enjoying the sun and I'm sure working very hard down there, so good luck, Lieutenant Tiffany.

We, as I said, had a full agenda. We heard from Richard Udell, who is the trial lawyer and head of the Environmental Crime Section of the Department of Justice. Mr. Udell spoke extensively on some of the more significant cases that the Department of Justice has prosecuted during the past year and it was very informative, very enlightening and he touched on the whole negligence -- criminalization of negligence conduct issue which I know is of importance to the Maritime Law Association and folks who are practicing in that area. His PowerPoint presentation is going to be posted on our website hopefully next week so I urge all of you to go to the website and take a look at that.

Mike Underhill gave a summary of some of the logistic and procedural issues surrounding the DEEPWATER HORIZON litigation. He did not discuss any of the substantive issues that were going on for obvious reasons, but it was a very enlightening presentation because he highlighted the complexity of the litigation. There are several tracks going on with regards to discovery, both here and in England. Depositions are being presented by live feed and are available for anybody involved in the litigation to watch, and a lot of other fascinating details regarding that litigation that is currently scheduled for trial in February of 2012, at least phase one of the trial is scheduled, and Mike described that litigation as structured as you would structure a limitation of liability trial and within that, you have the Oil Pollution Act issues that are obviously of quite importance in that litigation.

We heard a presentation from Larry Kiern. Larry is kind enough every year to talk about the state of legislation effecting the marine industry and this year, Larry basically reported that there isn't much on Congress's agenda due primarily to the fact that the primary concern of Congress are budget issues and that is taking up a lot of energy and effort and time on the Hill so there isn't really much of significance going on with regard to marine legislation.

He did talk about the legislation that almost became law last year which would have seriously affected the Limitation of Liability Act and the Jones Act and gave us the progression of that legislation, and, as all of you know, the MLA took a position with regard to uniformity and how the proposed bills would have affected uniformity and certain aspects of limitation. The legislation, all of the statutes that were pending in the Senate died in December towards the end of the session primarily because there wasn't finally enough votes, 60 votes for that legislation to go through, so it took quite an effort, according to Larry, on the part of industry to really block that legislation.

Larry Kahn presented a paper on PCBs and how that is affecting the disposal of vessels and I understand that Larry is going to be kind enough to put that in a written form and when he does, we will post that on our website as well.

Finally, we heard from Denise Krepp of MARAD and she brought us up to date with regard to what is going on there.

Before I conclude, I do want to mention that we published Volume Two, Issue One of the newsletter for the Marine Ecology Committee, Bilge and Barratry. This you can find on both the committee page on the website as well as in the library of the MLA on the website. It has a lot of useful information. There is an update on the Asian carp litigation out in the midwest and Chicago. There is information with regard to ballast water issues. We have cited cases that were prosecuted by the Department of Justice, mostly with regard to environmental crimes, and we also have some cases with regard to several issues arising out of pollution matters and the marine industry, so I encourage all of you to go to the website and take a look at that. Mr. President, that concludes my report.

MR. BONNER: Thank you very much, Dennis. Next will be Frank Nolan, Marine Financing, to be followed by Joe Grasso, Marine Insurance.

MR. NOLAN: Good morning, Mr. President. Mr. President, officers, honored guests, fellow members and assorted others. I didn't want to leave anybody out.

The Marine Financing Committee and its subcommittees met on Wednesday all day in the offices of Vedder Price, the home of its dear leader, that would be me, and first we had subcommittee reports, subcommittee meetings from nine until noon starting with the joint subcommittee we have with Practice and Procedure chaired by Mike Frevola, and we had a lively discussion of the impact and priority of double wage penalty claims, and we were assured by Mike that so far none of the penalty parts of these have succeeded as crew wage lien claims in any foreclosure proceedings so that all is right in the universe and as it should be.

We then moved on to the subcommittee on yachting at which we got our annual update on the status of yacht financing and the terrible tragedies befalling people who have lost their hundred foot homes, and we discussed a number of aspects of the foreclosure situation with yachts in different parts of the United States.

Finally, we had a meeting of the subcommittee on Coast Guard and Citizenship in which our new and good friend Steve Poulin reported on the status of an investigation into Trico Marine and the difficulties in proving citizenship for Jones Act purposes for public corporations. This I think is a rather distressing development and a very insoluble problem as it affects public corporations in most cases, so we expect to hear more on that.

We will be submitting a written report of the committee's activity because it was quite a full day and I don't want to have you glaze over, as the doughnuts were that we started with, in order to drag our membership out of the local taverns.

Next we discussed activities of working groups that we have established over the past couple of years. One of these is the one that

you've heard me report on before which is vessel leasing. We had produced an excellent piece of legislative art and taken it down to Congress which, of course, is not that familiar with well-drafted documents and we met with limited success and usually wasted only train fare, and we then at that point decided to take this to the Liberians thinking that perhaps a system that is run on a rational commercial basis might actually be able to deal with this. So at the present time what we have is a modified version of our U.S. proposal drafted to fit in with the Liberian Maritime Law and the Liberian Government and LISCR (Liberian International and Corporate Registries) are discussing this at some level and we are in the process of demonstrating to them what the need and usefulness of this provision is, so we didn't have any commitments from anyone yet but we are hopeful that we can make some progress.

Interestingly enough, as we read the Ship Mortgage Act, an agreement which can meet the standards of a preferred mortgage could be enforced in the United States as a preferred mortgage and we are all looking forward to the day when a Liberian financing charter is foreclosed upon in the United States by a United States court doing something which they couldn't do for our own citizens under a U.S. flag vessel charter. Hopefully there is a lesson there for Congress, but who knows, so that's where that is and that is the subject of one working group.

Another working group is one that we established last fall at the Houston meeting to clean up Part 67, the documentation section of the CFR. We -- I designated Tom Hawley to lead that effort as he was not present in Houston and deserved to be punished, and so he then divided it into three more parts, kept one for himself and created one group to deal with fisheries changes and another one to deal with yachting provisions, and this will all be coalesced hopefully by Labor Day and presented to the Coast Guard as a suggestion of what might be done. In particular, we are staying away from anything that smacks of a substantive amendment in the law, the concept here is to streamline and reconnect all of the mis-directed and disconnected regulatory sections and statutory references, so there is no great drama coming out of it, just perhaps a more rational construct for Part 67.

We had discussed a concept for CLE for future meetings and we have tried to get together on this for a number years and it always seems to fall off but we finally agreed that we were going to go with

the leadership of Edward LeBreton in New Orleans to patch together a CLE program for next May at our meeting on the subject of understanding insurance products suitable for mortgagees and passive investors, so with a topic like that, how can you not draw a huge crowd and I think it's going to be very useful. Hopefully it rains again and our chances of high attendance are better. Wednesday was a great day for attendance.

We had a presentation from my friend Dr. Jan Dreyer of Dabelstein & Passehl who came and spoke on German finance dealing primarily with the subject of KG structures and the tax advantages and the sources of funds and the impact of the Lehman collapse. I mean, we've probably all forgotten about Lehman we have had so many other dead bodies in the economy since Lehman but that is apparently the benchmark for the German KG analysis. But it was quite an interesting discussion and it was followed by presentations by members of the Liberian Government and LISCR on the subject of changes recently made in Liberian law primarily involving business corporations and the maritime law, not of the watery type but more of the financing type. I mean watery like briny, not thin, just so no one misunderstands that.

And, finally, after this settled in, I made an announcement and formed another committee working group to discuss reorienting the approach of the Marine Financing Committee to deal more in the blue water area, more in international finance, to redirect it to what we once were back in the days when Emery Harper helped to found the committee, and so we will be looking not to abandon our interest in domestic matters but really to broaden them back to where they ought to be, and I think that that will be a more appealing feature for the membership that we have and perhaps new members, and outside of the unduly lengthy report which will be submitted in an unduly lengthy period of time, that concludes my report, Mr. President.

MR. BONNER: Thank you very much, Frank. If anybody wants to come up, we have seats over here. I don't know whether they set fewer chairs out or we have more people here, but please feel free to do so while Joe is coming up.

It will be Joe Grasso, Marine Insurance, followed by Brad Jackson, Offshore Industries.

MR. GRASSO: Thank you, Mr. President. Good morning. The Committee on Marine Insurance and General Average met Wednesday morning at the offices of Allianz Global Corporate and Specialty Insurance, and we would like to thank Roger Ablett and AGCS for their hospitality. We had 40 members and guests in attendance including guests from Argentina, Panama and Germany.

The first item on our agenda was the presentation of our newsletter which is edited by Gene George, and I'd like to thank Gene again for all of his hard work. I recommend it to all of you. It's a very scholarly undertaking and Gene puts it out twice a year. There are some hardcopies on the tables out front; it's also posted on our committee home page. There is a great article in this edition authored by Keith Heard on commercial frustration.

We then had a presentation by Jim Craig who is the President of the American Institute of Marine Underwriters and Jim told us what that organization is up to. There is a lot of information available on the AIMU website and they provide many educational opportunities including several which would be of particular interest to the admiralty bar.

We then had a presentation by Michael Marks Cohen on an ALI project on liability insurance that he and Bob Zapf are working on. There is a written report on the status of that project which I think we are going to post on our committee's home page.

We then announced a launching in earnest of a project the committee is going to undertake on the definition of marine insurance, another scintillating topic, but this comes to us from work done by Gray Staring several years ago. It was excellent and very scholarly work which he has donated to the MLA, and President Bonner has asked our committee to take it and expand on it, so we will do that and we launched that project on Wednesday morning.

We had a report by our Hull and P&I subcommittee chairman, John Woods, on the recent decision on the ATHOS 1, a very interesting case I'm sure a lot of you in the room have been following.

And, finally, we had a presentation by Graham Ellis who's the head of BMT Marine and Offshore Surveys incorporating the Salvage

Association here in New York. He had a very entertaining presentation on lessons learned from a surveyor's point of view. That generated a lot of good discussion and questions. That concludes my report.

MR. BONNER: Thank you very much, Joe. Offshore Industries, Brad Jackson, to be followed by Practice and Procedure, Josh Force.

MR. JACKSON: Good morning. Good morning, Mr. President, officers, fellow directors, members and distinguished guests.

The Offshore Industries Committee met yesterday afternoon at the offices of Carter, Ledyard & Milburn and we want to express our thanks for the space that they made available. We had 25 in attendance with us, five or so by telephone, and we really had a terrific meeting. I want to give my thanks to Captain Steve Poulin and to Mike Bell, also of Houston, for arranging the presentations that we had.

We had Captain Dave Fish, Chief of the Office of Investigations and Casualty Analysis, from the Coast Guard talk to us about the Coast Guard Section Volume I of the Joint Investigation Team Report on the DEEPWATER HORIZON disaster, and it was very enlightening, very interesting about the procedures used, the coordination with BOEMRE, which we have decided in rock parlance ought to be now referred to as the agency formerly known as MMS. It was a very interesting presentation about the marine investigation aspects and what was done in terms of bringing in people not normally associated with marine investigation such as a retired federal judge to assist and the potential complications of having a retired federal judge and the fact that this one worked out terrifically, and there was information that may be incorporated in future marine investigation procedures and so it was very helpful and very interesting.

We also had Cal Lederer who is the acting Judge Advocate General of the Coast Guard there to keep Captain Dave Fish out of trouble, so it was also interesting to hear from Cal about the legal aspects and questions that were raised about the use of Coast Guard investigation reports in litigation, so it was a rousing and interesting program and if you weren't there, you missed out.

Mike McGlone also talked to us about some interesting statistics about what's been going on in the Gulf of Mexico and the thoroughbred blue water folks may not understand that when you take a lease from the government, you have a set period of time in which to explore for natural resources on that lease. If you cannot get a permit, your lease can expire with you having spent the money to get the lease but not having been able to do anything because the government that sold you the lease won't get you a permit to drill on the lease. So very interesting statistics, particularly the number of leases that will expire in this coming year if we don't speed up the permitting process.

And in terms of breaking news, I had received an email not 30 minutes ago from Ryan Acomb who is vice chair of our committee who tells me that the U.S. House of Representatives passed the first in a series of three bills today that mandates the acceleration of the offshore drilling permitting process and opens up new areas to oil and gas drilling, so apparently we are starting to make some progress but that's just the House of Representatives.

So this whole area of offshore industries these days has gotten extremely interesting. We will be meeting in Hawaii, and so on to Hawaii, and again, thanks to our presenters and to those who assisted in arranging the program.

And as a final note of personal preference, Mr. President, let me say on behalf of the now retired Houston planning committee how disappointed we are that you have retired your cowboy hat. Thank you very much.

(Laughter)

MR. BONNER: Thank you very much, Brad. I didn't see Cal Lederer back there earlier when I was introducing the honored guests and thank you for coming, Cal. Next will be Josh Force followed by Regulation of Vessel Operations, Jeff Moller.

MR. FORCE: Thank you, Mr. President, officers, fellow directors, members of the Association, and guests.

The Practice and Procedure Committee met on Wednesday at the offices of Holland & Knight. We would like to thank Holland & Knight and, particularly, Vincent Foley, for their hospitality in hosting us.

We began our committee meeting with a presentation from Dr. Jan Backhaus of Dabelstein & Passehl in Hamburg. Dr. Backhaus discussed the enforcement of U.S. judgments in Germany. His presentation focused on the procedures and legal issues involved in obtaining recognition and enforcement of U.S. judgments in Germany. The presentation was very interesting to our committee, very informative, and it was very easy to tell the interest based on the number of questions that were asked of Dr. Backhaus and how long we kept him discussing his topic with us.

Next, Mike Frevola of New York, who as Frank Nolan mentioned chairs the joint subcommittee on maritime liens and mortgages, made a presentation based on what that subcommittee is discussing. He began by telling us about the wage lien issue that Frank mentioned earlier, but Mike also talked to us about the uniform vessel titling law that is being discussed as well as bringing us up to date on some recent cases involving Supplemental Admiralty Rules B and C.

With respect to Supplemental Admiralty Rule C, the committee revisited proposed revisions to the Commercial Instruments and Maritime Liens Act and Rule C involving the notice requirements for arresting a vessel. As some of you may recall, in 2004, the Association adopted a resolution that was presented by the Practice and Procedure Committee, and that resolution suggested, among other things, requiring notice to the owner of the vessel as well as to any others known to have an interest in or against a vessel. We have received an inquiry recently from the Federal Rules Committee asking about our position, and, while we believe that this resolution was passed along to that committee, it doesn't appear to have made an impact yet. There doesn't appear to have been any action that's been taken with respect to the resolution, so the committee discussed ways in which we could bring this proposal back before the Federal Rules Committee without inviting that committee to begin a broader reconsideration of the rules regarding arrest procedures.

With respect to Rule B, the committee continues to monitor Rule B developments and decisions in the wake of the *Jaldhi* decision.

The committee is also continuing to update its survey of the federal judicial districts' adoption of the Model Local Admiralty Rules. In Houston, we reported on a survey that was conducted by the Young Lawyers Committee of all the judicial districts, and they have produced a chart of which judicial districts have adopted various aspects or versions of our Model Local Admiralty Rules. That chart will be available soon on our website and in our library in our particular part of the website. Bob Zapf of California reported that the Central District of California has recently adopted the 2008 version of the Model Local Admiralty Rules.

Lastly, we concluded our meeting by recognizing the passing of Andy Goldstein. Andy preceded me as chair of the Practice and Procedure Committee. He was actively involved in the work of the committee for very many years and, in particular, was instrumental in the development of the Model Local Admiralty Rules. Andy's passing was a great loss not only for the Association but, especially for our committee. Mr. President, that concludes my report.

MR. BONNER: Thank you very much, Josh. We will go with Jeff Moller, Regulation of Vessel Operations to be followed by Steve-dores, Tony Filiato.

MR. MOLLER: Thank you, Mr. President. Officers, members, guests, good morning to all. The Committee on Regulation of Vessel Operations, Safety Security and Navigation held two joint meetings this week, one in Washington and one in New York. I want to reiterate the thanks expressed by Denny Minichello to Larry Kiern at Winston & Strawn for hosting in Washington, and Vince Foley and Holland & Knight for hosting in New York. We had a very full agenda, as a matter of fact, a total of 127 attendees between both meetings, not including significant participation by telephone conference call.

As Dennis indicated, for the purpose of this morning's reports, we have sort of split up the topics that were covered. I want to thank MARAD, EPA, the Coast Guard and the Department of Justice for all sending representatives to our meetings to give very informative speeches.

As indicated, EPA sent a representative this time. A staff attorney, Juhi Saxena, came to discuss the history and current status of the

Vessel General Permit Program which, as she explained it, drew EPA rather begrudgingly into the business of regulating the shipping industry. She discussed a seminal case decided in 2004 by which an environmental action group sued the EPA and demanded the repeal of an exclusion in the Clean Water Act regulations governing NPDES permits that up to that time excluded commercial vessels from regulation. As a result of the decision in that case, the exclusion had to be repealed and the EPA went into the business of regulating shipping. The Vessel General Permit issued first in 2008 is up for renewal in 2013 and Ms. Saxena described the comments that had been received and what the Vessel General Permit is likely to look like in 2013.

In conjunction with that presentation, we had Ms. Jen Mahaffey from the Coast Guard discussing the Coast Guard's ballast water regulation that is now in process and an NRPM which was issued in 2009. Ms. Mahaffey admitted that the enabling statute that required the Coast Guard to get into the ballast water regulation business did not preempt state action, so that those programs in Wisconsin, Illinois and elsewhere that had been put into place by state regulation to guard against invasive species being pumped into the waters of the Great Lakes and otherwise, are not going to be preempted by the Coast Guard's program.

The omnipresent Captain Steve Poulin from the Coast Guard gave his very informative talk on piracy. As some of you may know, my committee has had a subcommittee on piracy for a number of years now and the subject is of great interest to our members. Some of the statistics that Captain Poulin discussed with us with respect to the breadth and depth of the piracy problem are alarming and it's surprising that they are not constant front-page news. For example, he said that currently off the coast of Somalia, there are 30 vessels being held hostage with 685 vessel crewmen being held hostage. Captain Poulin allowed as if the international reaction to such a situation might be very different if those were commercial aircraft on the ground with passengers, U.S. citizens and so forth involved.

The Somali coast where most of the activity takes place is as long as the U.S. coastline from Maine to Miami. The attacks in 2010 increased by ten percent and as many as 107 vessels were actually fired upon during 2010.

Steve gave a disclaimer with respect to some of the economic costs that he was able to present to us as not being formal U.S. compiled statistics, but a number as high as 12 billion dollars of annual cost to the international economy can be associated apparently to the piracy scourge.

He also talked about the fact that there has been, as has been mentioned earlier today, there has been no successful abduction from any armed vessel off the coast of Somalia and that it seems like many heretofore reluctant international members of the United Nations, if you will, are getting with the program with respect to encouraging armed escorts on ships that transit the Indian ocean.

Steve also noted the various statutes in the United States that govern piracy, abduction and armed robbery at sea and stated that one problem with international enforcement is that there are many nations that do not have similar statutes in place.

Finally, he mentioned that there had been the first successful prosecution of pirates in the United States since 1820 as a result of the Maersk ALABAMA incident.

We had a presentation from Lieutenant Commander Greg Callaghan on the TWIC program which if you don't have a TWIC credential yet, I would urge you to obtain one. Suffice it to say that Greg said that he had been "TWICKed" into taking the job at headquarters.

(Laughter)

MR. MOLLER: I got the feeling that was his standard opening line, but, nevertheless, it's an active and ongoing program. He mentioned that there are, up to now, two million activated TWICs now in use around the country.

Finally, at my instigation, we had a presentation in both Washington and New York from a fellow MLA member, Erich Wise, of Long Beach who is handling on behalf of Pacific Merchant Shipping Association a very important case involving the regulation of vessel operations and fuel usage off the Coast of California. In preparing the agenda for our meetings, I had come across an advance sheet of the Ninth Circuit

decision in the case of *PMSA vs. Goldstone* and thought that it would be a perfect one for MLA activity. As a result of that, Erich actually submitted to the Board, which happened to be meeting at the time, a request that the MLA get involved on an amicus basis in the appeal to Supreme Court and so at the request of President Bonner, I'm going to take on the job of writing an amicus brief supporting PMSA's pending request for a writ of cert to the Supreme Court.

I just want to, if I may, President Bonner, read a quick quote of the decision as to why I think it was an important one. The background of the case is that ten years or so ago, the state of California CARB, which is the air regulatory body, first issued regulations with respect to vessel fuel use and tried to extend them 24 miles off the coast. The first set of regulations was tossed out by litigation brought by Erich and PMSA on the basis that they were performance-based rather than fuel-specification based.

CARB went back to the drawing board, drew up regulations now which, among other things, limit drastically the amount of sulphur that can be a component of the fuel used in vessels. PMSA challenged it again, but this time the Ninth Circuit allowed that the motion to dismiss was not appropriate and the regulation should go into affect.

Judge Cowen wrote as follows: "This appeal presents the court with a highly unusual and challenging set of circumstances. Given the circumstances, we do believe that the regulatory scheme at issue here pushes the state's legal authority to its very limits, although the state had clear justifications for doing so. More generally, we must take into account such fundamental considerations as on the one hand, the supremacy of federal law, the various limitations on state regulations arising out of the dormant commerce clause and general maritime law preemption doctrines and the federal government's unquestioned authority over this nation's relations with foreign countries, and on the other hand, the sovereign police powers retained by California allowing the state to adopt a wide range of laws in order to protect the health, safety and welfare of its own residents."

So that's an important case that the MLA is going to get involved in at least at the amicus level supporting the writ of cert.

Finally, I would like to make a note for the record that meeting minutes have been taken of both of these joint committee meetings by my committee secretary, Dave Sump, and they will be posted on my committee's website. That concludes my report, Mr. President.

MR. BONNER: Thank you very much, Jeff. When I asked Jeff to do the amicus brief, I promised him that his portrait would be hung in the imaginary hall of fame at the MLA headquarters, wherever that is, along with the portraits of everyone else who has written amicus briefs over the years, so thank you, Jeff. Anthony Filiato followed by Alex Giles, Young Lawyers.

MR. FILIATO: Good morning, Mr. President, fellow members. The Stevedores, Marine Terminals and Vessel Services Committee met yesterday morning at the Jones Hirsch offices, we had 30 attendees. We had a very packed agenda.

We started the meeting with a presentation by Dr. Dieter Schwampe of Dabelstein & Passehl who gave a PowerPoint presentation on avenues of avoiding the Himalayan clause by suing German freight forwarders directly in German courts. This was of some interest to our members who handle cargo cases, particularly the higher limitation figures that were being discussed.

We next had a presentation of legal developments in both the Longshore and Jones Act given by Tom Langan of Weeks Marine. It was a very thorough paper that will be posted on our website. One of the cases on the discussion was a case called *Pacific Operators v. Valladolid*. This is an Outer-Continental Shelf Lands Act case involving a fatality that occurred on shore in California, and the issue is whether there is jurisdiction under that act considering that there are situs provisions directly in the statute itself. We were fortunate enough to have Nick Thomas who handled the case for the employer who gave us an overview of the legal issues involved. There is a split in the circuits between the Third, Fifth and the Ninth, the Ninth, of course, chiming in with a completely different set of rules as usual, which I think which is what prompted the Supreme Court to accept the case. We will be following that closely. Hopefully that results in some uniformity in the law.

Dave Loh provided his usual thorough freight forwarder subcommittee report to us and his report will also be up on our website.

I gave a brief presentation concerning the reintroduction of the Longshore Reform Act and also involving some DOL regulations involving recreational vessels and how they will be treated under the Longshore Act.

Finally, we had a discussion concerning our other subcommittee, the ship builder subcommittee, which has been somewhat dormant over the last couple of years. I'm pleased to report that we seem to have some volunteers. We are going to be repopulating that subcommittee and hopefully reinvigorating it. That concludes my report, Mr. President.

MR. BONNER: Thank you very much, Tony. Alex Giles to be followed by Dick Leslie, American Bar Association Relations.

MR. GILES: Mr. President, officers, fellow members and distinguished guests, the Young Lawyers Committee met yesterday at the law offices of Freehill, Hogan & Mahar. We had an attendance in excess of 30, several on the phone including President Pat Bonner, First Vice President Bob Parrish, Kent Roberts and U.S. Coast Guard Lieutenant Kelley Tiffany.

We had a feature presentation that was brought to us by Kent Roberts of the Schwabe, Williamson and Wyatt firm in Portland. He talked to us about the Limitation of Liability Act, in particular the MLA proposal, the discussions that form the basis of the majority and the minority positions in the September 25th report of last year, the current status of that proposal, and the prospects for the future as well as related practice considerations for our membership.

We also had a presentation from Lieutenant Kelley Tiffany of the Coast Guard who provided the committee with a broad overview of the authorities under which the U.S. Coast Guard operates based on the many hats that it wears. I want to give a special thanks to Lieutenant Tiffany. The MLA Report, as everyone knows, has had a very good relationship with the Coast Guard and that relationship has been extended to our committee through the efforts of Lieutenant Tiffany over the last

couple years for which we are very thankful. And we're even considering in the future moving one of our committee meetings to Puerto Rico so that it would be easier for her to attend.

(Laughter)

MR. GILES: As you've heard me report in recent meetings, we have reinstated the committee liaison program and we were fortunate to hear multiple reports from various committee liaisons and several of them reported on various projects where our assistance is being sought, so incoming Chair Betsy Bundy and the committee will be working on getting on top of those projects in the coming weeks.

We next went over some ongoing and recently completed projects including the MLA Resolutions Project, the Model Local Admiralty Rules Project and the assistance that was sought of our committee for the MLA report. I would like to give some special thanks to Patrick Ward who has been a workhorse on the MLA Resolutions Project, and Sam Blatchley who spearheaded our efforts in conjunction with the Practice and Procedure Committee for the Model Local Admiralty Rules project.

As is tradition, last night the committee reconvened for the social event at Los Feliz Tequileria on the Lower East Side in celebration of Cinco de Mayo. I would like to give special thanks to SEA Limited and in particular Anthony Barker for their sponsorship of the cocktail hour. We had a record crowd. It was approximately 70 for cocktails and 55 for dinner. And it has been typical in recent years, paparazzi were staked outside the restaurant the entire night.

(Laughter)

MR. GILES: As always I would like to thank Pamela Schultz of Severson & Werson in San Francisco for her efforts in organizing the event and festivities of the night.

And, finally, I'm pleased to report that the Young Lawyers are under new leadership with Betsy Bundy of Freehill, Hogan & Mahar as the incoming chair here in New York. Norman Stockman of Hand Arendall, the vice chair, of Mobile. And Draughn Arbona of CMA CGM as the incoming secretary. That concludes my report.

MR. BONNER: Thank you very much, Alex. I'm sorry I do not have a certificate for you, it fell through the cracks but you will get one at the next meeting.

Dick Leslie to be followed by Dan McDermott, Uniformity.

MR. LESLIE: Thank you, Mr. President. Good morning, ladies and gentlemen, I'm Dick Leslie from Coral Gables, Florida. I chair the American Bar Association Relations Committee and thank again Vince Foley of Holland & Knight where we met on Wednesday, and I'm also your representative to the ABA House of Delegates which I have done for the last three years.

I last reported to you in Texas at the Houston meeting in the fall. Since then, the ABA had a winter meeting in Atlanta, Georgia, February 14th, and while they did a lot of things that I felt were important, they weren't of specific significance to the Maritime Law Association.

I do expect issues to come up in the future however because DEEPWATER HORIZON, of course, is out there with all sorts of legislation being proposed and all sorts of things, so I think the MLA should stand ready to share our expertise and experience and look to the ABA to support positions that we either want to advocate or have people asking to advocate. I thank you for allowing me to serve and that concludes my report, Mr. President.

MR. BONNER: Thank you very much, Dick. Uniformity of Maritime Law to be followed by the In-house Counsel Committee. Is Dan here? Oh, I'm sorry.

MR. WASHKOWITZ: Thank you, Mr. President. My name is Jared Washkowitz from the firm of O'Connor, Playdon & Guben in Honolulu, Hawaii, I'm standing in for Dan McDermott today. He is the chair of the Uniformity Committee.

We had the meeting yesterday at the office of Marshall, Dennehey, Warner, Coleman & Goggin. We got a welcome from Dan McDermott. We then heard from Tony Pruzinsky who talked about the *DG HARMONY* case and the uniformity implications of that case. Lieutenant Kelley Tiffany from the Coast Guard gave a presentation on some

military justice issues. I gave a summary of some new cases that have come out that discuss uniformity in maritime law. And then we heard from Dan McDermott who discussed the federal Longshore Act and its interplay with state labor laws and we basically concluded the meeting discussing the need for volunteers to get involved with amicus briefs on behalf of the MLA. We had about three or four people at the meeting volunteer for that, I'm told they are looking for more volunteers and if you're interested, you should contact Dan McDermott on that, and that is it, thank you.

MR. BONNER: Thank you very much. In-house Counsel, Art Mead.

MR. MEAD: Good morning, Mr. President, officers, distinguished members and guests, everybody.

The In-house Counsel meeting occurred yesterday with a call to order at 1:30 at the midtown offices of Holland & Knight and I want to thank, as many people have done this morning, Vince Foley of Holland & Knight for his gracious allowance of that venue. I also want to thank Skip Volkle, my co-chair, who helped put together the agenda. We had a very aggressive agenda. We actually didn't finish all the topics. We also had 21 people in attendance which was an increase from -- we're a three-year-old committee, I should go back and say, so the first committee meeting, we had 12 members, the second committee meeting we had about 18, this year we had 21 members in attendance and three on the phone, and those folks really ran the gambit of marine sectors from insurance, in-house counsel at P&I clubs, tug and barge, international liner/tanker, and we also had some people from the cruise ship industry, so it's a pretty challenging effort to put on something that fits with everybody else given the diverse sectors and in that regard, I want to thank Liz Burrell who approached me about four or five years ago to be a plank owner in this effort and it's going well, it went well under Warren and it's going strong and increasing, so I want to report that to the membership.

We started with an hour of CLE given by Ernie Reddick of the law firm of Nixon Peabody in San Francisco. The topics included the usual attorney/client communications, work product and there was also a discussion of the self-critical analysis doctrine as it relates to incident reporting when internal investigations are undertaken by in-house counsel

and others who work for the corporations whom you all represent. We had some spirited discussion on the tips that came out of that and corporate structure and also process and best practices related to those issues.

We moved on from there with a speaker, Gino Zonghetti, who is the lead counsel in *Brown v. Reinauer*, the companion case to *CSX v. McBride* which has been mentioned a few times this morning. He discussed the history of FELA and its incorporation into the Jones Act as well as the slightest standard of causation which is under scrutiny in the *CSX* case, and went into a lot of detail as to his case, the *Reinauer* case, which of course is a maritime case, ending with a discussion on the jury instructions which were are really abhorrent in that case and have led to the appeals to the Supreme Court, and so hopefully we will get back to a proximate causation type standard and something that we could all live with.

He also discussed very importantly to the folks in the room the effect on settlement discussions that jury instructions of the type that were used in the *CSX* case and the *Reinauer* case because at one point the justice – Chief Justice Roberts apparently during oral argument had mentioned that he didn't see a real difference between the slight -- even the slightest standard of causation and what was being advocated by *CSX* in that case.

Finally we moved on to -- and I want to get his name right -- Ralph Semeraro, managing director of AON Financial Services who presented on the differences between D and O policies and riders and professional liability coverage for corporate lawyers and corporate officers and in-house counsel.

So after a spirited discussion on all those topics that hopefully everybody enjoyed, and, of course, we are always going to have a spirited discussion with Skip in the room, we adjourned and that concludes my report, Mr. President.

MR. BONNER: Thank you very much, Art. And thank you for all the work you have done in developing this committee, it has really taken off and it's appreciated.

(Theme from Hawaii Five-O was played.)

MR. BONNER: You know who I'm introducing next, don't you? Can you hear it? JoAnne.

MS. ZAWITOSKI: Mr. President, thank you for that musical interlude. Distinguished officers and guests, ladies and gentlemen, members, Aloha from your Planning and Arrangements Committee for Hawaii.

(Applause)

MS. ZAWITOSKI: Last fall in Houston, your Planning and Arrangements Committee made you an offer that you couldn't refuse, to come to O'ahu, Hawaii from December 2nd to December 7th, 2011 for the joint fall meeting of this Association and the Maritime Law Associations of Australia, New Zealand and Canada. I said at that time that this was an offer you couldn't refuse, because our meeting hotel is going to be the five star J.W. Marriott Resort and Spa at Ko Olina. It's an oceanfront resort, absolutely gorgeous, and the rooms there usually sell for between five hundred and six hundred dollars a night, but your committee has negotiated a great rate for our members and guests of \$239 a night.

And because of this, many of you have already taken us up on this offer that we thought you couldn't refuse and our room block at the hotel is already more than 80 percent sold. So for those of you who have been sitting on the sidelines trying to decide whether or not you want to come or thinking that you are going to come but thinking that you could wait to reserve the rooms, I would like to encourage you to act quickly before you get shut out. So if you want to go to Hawaii, you're thinking about doing it, I want to encourage you to go on the MLA's website. Our registration brochure for the meeting is on the website. It looks like this except in color and it's interactive, so you can click on the links there and get right to the hotel and reserve your room if that's what you want to do.

We're going to have 12 hours of CLE planned for this meeting, and our speakers are going to include Captain Steve Poulin, Chief of the U.S. Coast Guard Office on Maritime and International Law; Sandra Gluck, President of Gard North America; Professor Martin Davies, the Director of the Tulane Maritime Law Institute. We're also going to have

a panel of in-house counsel from Conoco, Exxon/Mobil and Noble Drilling Services talking about DEEPWATER HORIZON and some other risk-related issues for those oil companies. Finally, we have three distinguished judges as speakers: Judge J. Clifford Wallace from the Ninth Circuit, Justice James Allsop, President of the Australian Court of Appeals, and Judge Mark Nadon from the Canadian Federal Court of Appeals. We have great speakers, a great CLE program, and we are also offering the usual social events that you have come to love over the years.

We're going to have a Hawaiian luau. There is a championship golf course right there at the hotel. We're going to have deep sea fishing; an afternoon sailing regatta at a yacht club, which is going to be a wonderful event; a fun run/walk along the beach; and an organized bus trip to Pearl Harbor for the 70th Anniversary of Pearl Harbor Day. These are some great events that I hope you will sign up for.

We are also offering pre and post meeting stays if you're interested in extending your trip not only on O'ahu itself but also on the Islands of Kauai, Maui and The Big Island. We have the same really great hotel prices negotiated for those pre and post trips, ranging from \$209 a night to \$239 a night, and these are all great four and five star resorts. This is going to be a really great meeting, so if you're thinking about coming, I urge you to go on the MLA's website and book your room for O'ahu.

If you are interested in going to the Pearl Harbor commemoration ceremony for the 70th Anniversary, I urge you to sign up for that as well, because there are only a limited number of seats we are going to have on the bus for that, and if you're considering going to one of the out islands, you will need to sign up for that soon too because we have a limited number of room nights at those hotels as well.

And I understand we have a special presentation that Kent Roberts would like to make at this time to our President.

MR. ROBERTS: President Bonner, I think this was the right size. We were trying to find something to match your hair.

(Laughter)

(Applause)

MR. BONNER: I'm sure you will all be very surprised to learn that I still have a few aloha shirts from my days in the Navy in Hawaii so this will increase my wardrobe.

We have a great, energetic committee and it's going to be a fabulous meeting. Thank you very much.

MS. ZAWITOSKI: Thank you, Mr. President. Hope to see you all there. Aloha.

MR. BONNER: One other thing, JoAnne. I have to report we haven't made much progress on the sporting issue. As you may remember, Sarah Derrington, President of the Australian MLA, challenged us to an outrigger canoe race and I responded with "Let's play lacrosse instead," which didn't go anywhere. So we asked Jeremy for the Canadians' input. He suggested ice hockey, so I said if you can find a rink on Oahu, you may be on. On a related note, what were you saying, Hal, you were going to reinstitute the Ryder Cup?

MR. WATSON: In past years, we have played something called The Challenge Cup with the United States against the rest of the world and we have already reached out to our Canadian friends and we will be reaching out to our Australian and New Zealand friends and hopefully they will be able to mount a team, so if you are a golfer and you want to participate in that match for the United States, let me know.

MR. BONNER: Thank you very much, JoAnne. Next I would like to introduce the person I think is the most important person in this room, Borianna Farrar. She is going to talk about the dinner tonight. She has done an excellent job; I don't know what we would do without her.

MS. FARRAR: I would like to thank the most important person in this room, you, Mr. President. Officers, directors, ladies and gentlemen, this year the annual cocktail reception and dinner starts earlier. The cocktail reception will commence at 6:00, and the dinner at 7:15. I have ordered the sunny weather, let's see whether nature will cooperate. There will be buses leaving the pier at 9:00 going to Penn Station, the Port Authority and Grand Central upon request.

This year, John Karpousis from Freehill has graciously agreed to entertain us the last hour of the dinner. There will be a band playing so stay. There will be an open bar with free drinks for half an hour after the dinner and a cash bar for the next half hour, so hopefully everyone will have a good time.

We will be waiting for you at the door. The MLA Dinner Committee will assist you in any way if you have any questions. Come and enjoy. Have a good dinner. Thank you.

MR. BONNER: Thank you very much, Boriana. I think this open bar, this may be the last year we have that. Please get your wine orders in early so there is no delay in serving the meal.

Next I would like to call upon Warren Marwedel, chair of the Nominating Committee.

MR. MARWEDEL: Thank you, Mr. President. The Nominating Committee met Wednesday at the offices of Curtis Mallet and nominated the following people: For Immediate Past President, Warren Marwedel; Membership Secretary, David Farrell; Treasurer, Bob Connor; Secretary, Hal Watson; Second Vice President, Bob Clyne; First Vice President, Bob Parrish; President, Pat Bonner.

We also nominated four directors: Susan Dorgan from New York, Robert Fisher from New Orleans, Alex Giles from Baltimore and Edward Powers from Norfolk.

MR. BONNER: I call upon the Senior Past President Ken Volk to make the customary motion.

MR. VOLK: Thank you, Mr. President. I move that we accept the report of the Nominating Committee, that further nominations be closed and that the Secretary be instructed to record a unanimous vote in favor of the report.

MR. BONNER: Is there a second?

MEMBERS: Second.

MR. BONNER: All in favor?

MEMBERS: Aye.

MR. BONNER: Motion carries. Congratulations to all the new officers.

Do we have any other old business? Is there any new business? Again, I will call upon Ken, do you have a motion?

MR. VOLK: I do. After a very interesting and informative meeting, I move we adjourn.

MR. BONNER: Thank you very much. Is there a second?

MEMBERS: Second.

MR. BONNER: All in favor?

MEMBERS: Aye.

MR. BONNER: Motion carried.

(MEETING ADJOURNED)

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

Held at the offices of
Sher Garner Cahill Richter Klein & Hilbert LLC
909 Poydras,
New Orleans, Louisiana
on
Tuesday, March 22, 2011
at
9:00 a.m.

The March 22, 2011 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 B. Parrish, First Vice President
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:

Frank P. DeGiulio
Robert B. Hopkins
Barbara L. Holland
Kimbley A. Kearney
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

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. Mr. Watson also reported that the next edition of the MLA Report is being prepared. The editors, Messrs. Hooper and Nourse, have recruited members of the Young Lawyers Committee to do a formal "Blue Book" edit, and the next edition should be ready for publication before the May meeting. Mr. Watson also reported that mailing the MLA Report together with the Proceedings achieves some cost savings, and that he will try to coordinate the mailing accordingly.

TREASURER'S REPORT

Mr. Connor delivered the Treasurer's report. As of January 31, 2011, the Association had \$494,068 in cash and investments, and \$2182 in the convention account. The third dues invoice will be mailed in two weeks, and will hopefully get a positive response from members who have not responded to the invoices they have received electronically.

The Houston Fall meeting was very successful from a financial viewpoint, yielding a small surplus. The Planning Committee for the meeting will ask the contributors if they want a pro rata return, but will present an alternative use for these funds.

A new form is being devised to request reimbursement for Officer and Board meetings. Mr. Connor asked that this be submitted to him electronically.

Consideration is being given to determining whether alternative accountants can be found that will be less expensive. However, it was decided to defer this until next year, so that Mr. Connor can go through his first audit with accountants who are familiar with the Association's accounts.

The Board was requested to make comments on the Whistleblower and Document Retention policies that have been circulated.

Mr. Connor reported that a check scanner will not be available till late summer.

A letter will be sent to former members to see if they would like to rejoin the Association.

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

MEMBERSHIP SECRETARY

Mr. Farrell delivered the Membership Secretary's report. The following applications for reinstatement have been received:

Harry R. Allen, Gulfport, Mississippi
 Les Reardanz III, Everett, Washington
 Robert A. Suarez, Hackensack, New Jersey

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

Tyler Arnold, Seattle
 B. Jason Barlow, Norfolk
 Meighan G. Burton, Baltimore
 Timothy S. Bush, Houston
 Minseo Choi, Seoul, Republic of Korea
 Daniel J. Cragg, St. Paul, Minnesota
 Timothy D. DePaula, New Orleans
 J. Ward Guilday, Wallingford, Pennsylvania
 Jay Hamad, Roseland, New Jersey
 Christopher L. Johnson, Houston
 Nikeyla T. Johnson, Houston
 James G. Lare, Philadelphia
 Mitchell R. Machann, Houston
 Brett T. Parks, Nashville, Tennessee
 Gene F. Price, Louisville, Kentucky
 Timothy D. Rau, Philadelphia
 Charles D. Schmidt, Waukesha, Wisconsin
 Martin H. Sitler, Jacksonville, Florida
 Timothy E. Steigelman, Portland, Maine
 Charles R. Wood, Jacksonville, Florida
 Jonas Sarunas Zikas, New York

The following applications for Law Student membership have been received:

Andrew Botts, St. Thomas University
 Melanie C. Collins, University of Alabama
 Cara J. Condit, Suffolk Law School
 Edwardo A. Guerra, St. Thomas University School of Law
 Edward Barrett Hails, University of Alabama
 Joseph Frederick McGowin, University of Alabama
 Christopher D. Odom, University of Alabama
 Alejandro Sims, InterAmerican University School of Law
 Britton Edward Turner II, University of Alabama

It was also recommended that former Commandant of the Coast Guard, Thad Allen be approved for Honorary Membership.

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

Mr. Farrell also reported the deaths of the following members:

Joseph A. Goetzke, of Fort Meade, MD; Associate: elected 1990
 Charles C. Goodenough, of Deltona, FL; Proctor: elected 1973
 Hon. Wendell C. Radford, of Beaumont, TX; Life Member: elected 1969
 Hon. Howell Cobb, of Beaumont, TX; Judicial: elected 1986
 Edward F. Cummerford, of Poway, CA; Life Member: elected 1948
 Michael A. Snyder, of Palo Heights, IL; Life Member: elected 1969
 Stephen H. Fields, of White Plains, NY; Life Member: elected 1965
 John H. Sweeney, of Duxbury, MA; Associate: elected 1995
 Francis X. Byrn, of New York, NY; Life Member: elected 1952
 Andrew J. Goldstein, of Flemington, NJ; Proctor: elected 1974
 Hon. Alexander T. Howard, of Mobile, AL; Life Member: elected 1967
 Prof. T.A. Clingan, Jr., of Coral Gables, FL; Academic: elected 1977
 Robert P. Whelan, of New York, NY; Life Member: elected 1946

He also reported that Charles D. Meadows, a former member, had died.

The membership of the Association is now 2947, consisting of the following categories of members:

Proctor	994
Associate (more than five years)	1054
Associate (less than five years)	152
Non-lawyer	162
Academic (more than five years)	36
Academic (less than five years)	2
Law student	74
Honorary	4
Judicial	141
Ex-officio	13
Life (Proctor)	309
Life (Non-lawyer)	14
Life (Judicial)	14
Life (Academic)	4
Total	2947 (2475 dues paying , 472 non-dues paying)

The decrease in membership is the result of the removal from the membership rolls of those members who did not pay dues in December 2010.

Mr. Farrell reported that of the 40 Law Student Members that graduated last year, only two have become Associate Members.

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

BOARD SUBCOMMITTEES

Meetings

Mr. Hopkins reported that attendance at the committee meetings at the May meeting in New York was affected by the location; attendance

was up at meetings held downtown, but down at meetings held in midtown. He recommended that the Association may want to consider having all morning meetings midtown and all afternoon meetings downtown or one day midtown/one day downtown, adopting a two hour lunch break to accommodate travel between uptown and downtown, ensuring that certain meetings do not overlap, and indicating on the schedule whether the address for a particular meeting is uptown or midtown. Appreciation was expressed to Mr. Hopkins for his thorough study of this issue. It was the general consensus that it would be difficult to implement any of these suggestions for the upcoming New York meeting, but that these recommendations should be considered for future meetings.

Ms. Holland reported that Fall Meeting in Houston was very successful, but that there were certain suggestions made that could improve future meetings. Some of the committee meetings were held in venues that were too small for the number of attendees. It was suggested that committee chairs be urged to keep careful attendance records so that the space can be matched to the likely attendance. In addition, there were inadequate hotel rooms at the main meeting hotel, and some members have requested that the Association commit to rooms for city meetings. Finally, the General Meeting was poorly attended, and there was a suggestion that this be moved to Friday afternoon.

Maritime Law

Mr. Moseley reported that the Maritime Law subcommittee had discussed the role of the Association in developing the maritime law, and concluded that the Association could be more active in this regard. It was recognized that this generally needs to be done on a case-by-case basis, with a view to enhancing the uniformity of the maritime law and to increasing maritime commerce.

The Board discussed ways in which this could be accomplished. It was suggested that the Association could offer to provide education for judges and Supreme Court clerks to orient them to maritime law. It was also recognized that while the Association does not engage in lobbying, Congress should be informed that the Association is a resource regarding legislation on maritime matters, and Mr. Volkle was asked to talk to Larry Kiern to determine what contacts we have with Congress.

DISCUSSION ITEMS

Coast Guard and other agency forums

President Bonner reported that Cal Lederer of the Coast Guard had suggested that the issue of one man boards of inquiry is one that might merit inclusion in the Coast Guard Forum, and that we may be able to assist the Coast Guard in developing better standards for these boards. Other issues that might warrant inclusion in future discussions include a follow-up on environmental cleanup and economic loss claims made to the Fund. It was also reported that the Maritime Administration has suggested initiating a similar forum with the Association.

CMLA 60th Anniversary Dinner

President Bonner reported that he will be attending the 60th Anniversary Dinner of the Canadian Maritime Law Association to be held in Vancouver on June 3.

Arctic Working Group

President Bonner reported that the CMI has formed a working group to study the effect of global warming and loss of Arctic ice on maritime commerce, and that he has appointed Doug Davis of Anchorage to represent the Association on this working group.

BIMCO Representative

President Bonner reported that Keith Heard has served his seven year term as the delegate to the BIMCO Documentary Committee, but that he is reappointing Mr. Heard to this position until after the Vancouver meeting in June of this year. This is being done at the request of BIMCO because a large number of new delegates will be joining the Documentary Committee. After this meeting, Mr. Heard will be replaced by Ms. Liz Burrell.

Hellenic American/Norwegian American Chamber of Shipping

President Bonner reported that the Association had previously provided free publicity to these organizations in return for a reduced

rate for MLA members. These organizations are no longer providing a discount, so the Association will no longer be publicizing their meetings other than to place them on the schedule of events on the MLA website.

Pacific Admiralty Seminar

Mr. Bonner reported that the Association and the Pacific Admiralty Seminar have been unable to work out the details necessary for the MLA to take over the sponsorship of this seminar. This issue will be discussed at the next meeting.

Oral remarks at MLA Dinner

President Bonner reported that a suggestion has been made that we have a speaker at the May dinner. It was the consensus of the Board that this would create difficulties with the length of the dinner and would interfere with members' ability to have sufficient time to mingle at the cocktail party, and accordingly, should not be pursued.

2012 and 2013 Fall Meetings

Mr. Parrish indicated that he is giving consideration to having the Fall 2012 Meeting in New York with a dinner dance, and having the Fall 2013 Meeting in Puerto Rico. These ideas were well received by the Board and will be given further consideration.

2011 Summer Board Meeting

President Bonner announced that the Board of Directors will meet in Gettysburg, Pennsylvania on Saturday, August 13.

NEW BUSINESS

Mr. Clyne reported that he will draft and circulate a proposed amendment to By-Law 504 to clarify that only unanimous Standing Committee reports may be acted on at any meeting of the members.

Respectfully submitted,
Harold K. Watson, Secretary

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

Held at the Association of the Bar of the City of New York
42 West 44th St.
on
Thursday, May 5, 2011
at
9 a.m.

The May 5, 2011 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 B. Parrish, First Vice President
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:

Frank P. DeGiulio	Robert B. Hopkins
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	

Also present at the invitation of the President was Joanne Zawitoski.

SECRETARY'S REPORT

Mr. Watson reported that mailing the Proceedings and the MLA Report together is saving the Association approximately \$2300 over what it would cost to mail these documents separately, and recommended that this practice be continued. He also reported that the project of gathering

all the resolutions passed by the Association since its inception is nearing completion. Upon motion duly made and seconded, the minutes of the March 22, 2011 meeting of the Board of Directors and the Secretary's report were unanimously approved and accepted.

TREASURER'S REPORT

Mr. Connor reported that the Association currently has approximately \$620,000 in its accounts, although approximately \$100,000 of this will be paid within days for the cost of the Spring Dinner. Dues collections to date are \$257,785.

There are 64 members who owe three years dues, 134 who owe two years, and 585 who owe this year's dues. A letter will be written to those who owe three years dues, informing them that they will be dropped from the rolls if they do not become current. Mr. Jackson pointed out that this letter should also remind those who are being dropped from the rolls of their ethical duty to delete any reference to their membership in the Association from their websites, curricula vitae, etc. The names of those owing two and three years dues will be divided among the Directors to contact. There was a consensus that it was probably too early to contact those who only owe this year's dues, but that a concerted effort should be made by the Board to contact all delinquent members before they become two years in arrears.

A discussion was held of whether the Association should accept credit card payments for dues. It was generally agreed that this would facilitate the payment of dues, and while there would be a cost associated with doing this, it would probably more than pay for itself in improved collections. Mr. Jackson is going to explore how the Houston Marine Insurance Seminar does this and report back to the Board. There was a consensus that the Association should move forward quickly so that, if possible, this could be made available for the Fall Meeting.

Mr. Connor reported that HSBC still cannot make a check scanner available, but hopes to be able to do this by the end of the summer.

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

MEMBERSHIP SECRETARY'S REPORT

Mr. Farrell reported that the following applications for membership have been received:

Honorary (one)

USCG ADM Thad W. Allen (Ret.), Arlington, Virginia

Academic (two)

CDR Preston C. De Jean, United States Merchant Marine Academy, Kings Point, New York
CDR James C. Kraska, JAGC, USN, U.S. Naval War College, Newport, Rhode Island

Judicial (one)

Walter J. Brudzinski, U.S. Coast Guard Administrative Law Judge, New York

Proctors (six plus 1 reinstatement)

Eli Bjornoy, Seattle
James N. Hurley, Miami
Sandra M. Kelly, Cleveland
William E. Lakis, Ramsey, New Jersey
Arthur A. Severance, Los Angeles
Deborah C. Waters, Norfolk
James C. Arnold (Reinstatement), Houston

Associates (11)

Kirby L. Aarsheim, Boston
John J. Benson, New York
Sean M. Brett, Vienna, Virginia
Wilton E. Bland, IV, New Orleans
Kip Brar, Houston
Trevor M. Cutaiar, New Orleans
Stacy Alison Fols, Cherry Hill, New Jersey

R. Monica Hennessy, Cherry Hill, New Jersey
Gini Mattson, Long Beach, California
Melanie A. Mundle, Cherry Hill, New Jersey
Robert E. O'Connor, Port Washington, New York
William Tansey, New York
Andrew J. Warner, Port Washington, New York

Non-Lawyer (four plus one reinstatement)

Claudio N. Crivici, Amityville, New York
Chris Dye, Houston
Mindy Nelson, New York
Carole M. Siefkes, Waukesha, Wisconsin
John A. Chamberlain (Reinstatement), Woodbury, Connecticut

Law Student (7)

Shawn Bevans, Charleston School of Law
Patrick Aulton Chisum, Charleston School of Law
Scott R. Gunst, Jr., Roger Williams School of Law
Stephanie Hampton, Florida University A&M School of Law
Brooke Shapiro, St. John's School of Law
Jonathan Curthbert Wright, Florida A&M University College of Law
Michael Zidanic, University of Maryland School of Law

On motion duly made and seconded these applications were approved.

Mr. Farrell also regretfully reported the death of J. Barbee Winston of New Orleans; Life Member, elected 1953; David C. Nolan, Walnut Creek, Proctor, elected 1972; and Gregg L. Spyridon, Proctor, elected 1981..

The membership of the Association is currently 2807, consisting of membership in the following categories:

Proctor	1,001
Associate (more than five years)	897
Associate (less than five years)	155

Non-Lawyer	166
Academic	37
Law Student	80
Judicial	114
Honorary	5
Ex Officio	13
Life	
Proctor	307
Non-Lawyer	14
Judicial	14
Academic	4

The drop in membership is due to the purging of the rolls for non-payment of dues, which had not been done for a number of years.

President Bonner reported on the efforts to get lawyers involved in marine financing to join the Association. Lawyers attending events focused on this area of maritime practice have been contacted and invited to join, and one new member resulted from this. Mr. Nolan commented that this effort would be helped by getting the Marine Financing Committee to focus more on traditional blue water marine financing.

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

SECOND VICE PRESIDENT'S REPORT

Mr. Clyne reported that a draft of the proposed amendments to Section 504 of the By-Laws will be circulated. He also reported that the Code of Ethics will be brought to the August Board meeting for signature by the Board, and that the Whistle Blower/Document Retention policies have been posted on the website.

Mr. Clyne also reported on the Committee Chairs meeting held on Wednesday, May 4. Lynn Kreiger, Vice-Chair of the Website and Technology Committee, gave a demonstration of the website. The Committee Chairs were asked to poll their members regarding their preference for downtown versus mid-town venues for committee meetings, with a view to instituting the proposal of the study done by the Committees subcommittee of the Board to have one day of meetings in each location.

It was also mentioned that large committee meetings needed to be coordinated to avoid conflicts.

Mr. Clyne also advised that the Committee Chairs Handbook was going to be revised and circulated.

ASSOCIATION MANAGEMENT

President Bonner reported that Richard M. Leslie's term as the Association's representative to the American Bar Association will expire after the August meeting of the ABA, and that James Bartlett, Vice-Chair of the Committee on American Bar Association Relations will be named as his successor.

President Bonner also reported that Rand Pixa has been reappointed as the Association's representative to the Government and Public Sectors Lawyer Division of the ABA.

BOARD SUB-COMMITTEE REPORTS

Meetings

Mr. DeGiulio reported on the study that has been done by the Meetings subcommittee of the Board on Board meetings and activities. He reported that the Directors were divided over whether the Board should be more involved in administration of the Association or whether the current level of involvement was proper, but no one thought that the Board should be less involved. He indicated that the Directors were unanimous in the view that Board meetings should be held in venues where there are significant numbers of members of the Association. The Directors also favored having Saturday evening events at Board meetings held on Saturdays, but that attendance at these events should be optional. He also noted the suggestion that Directors be assigned to a specific officer to assist that officer.

Maritime Law

Mr. Force reported that the Maritime Law subcommittee has explored whether the Federal Judicial Center might be receptive to the As-

sociation assisting with the education of judges and clerks with regard to maritime law. It was noted that the Association had participated in a retreat for federal judges put on by the Federal Judicial Center, but that thereafter, attempts by the Association to follow up on this meeting were not successful. More recently, there have been indications from the Center that they have the misconception that the Association is an interest group, and is apparently unaware of the broad base of the membership of the Association. Mr. Hopkins suggested that the Association offer assistance on the development of Pacer. Mr. Force suggested that an approach be made to judicial members of the Association, and to the Judicial Councils of the various circuits.

Mr. Volkle reported that he had spoken with Larry Kiern regarding raising the profile of the Association with Congress, and how to be more effective when we had a view to express on legislative matters. It was suggested that a legislative liaison committee be set up, and that this committee set up meetings with the staff of the committees that have involvement with maritime affairs. The need was expressed that the Association avoid any inference that we engage in lobbying, and that we emphasize that our interests are in improving maritime law and promoting uniformity, and not in advocating the interests of any particular group.

DISCUSSION ITEMS

President Bonner reported that Robin Becker will continue working with the Association. Mr. Marwedel reported on his efforts to locate a management company that could replace Robin Becker when that becomes necessary. He reported that he has investigated approximately 75 management firms, most of which are small family-run business, and has narrowed this list down to approximately 15 companies. He also reported that any updating on the website should probably be coordinated with a change of management companies

President Bonner reported that Tradewinds has offered to give the Association's members a free trial subscription, and that he will communicate this to the membership.

He also reported that the CMI has asked for our members' email addresses. In keeping with our policy of protecting our members' pri-

vacy, this request was refused, but we offered to distribute communications from the CMI through the Association's normal communications channels.

Pacific Admiralty Seminar

Mr. Nowell reported that the Pacific Admiralty Seminar is going to continue its relationship with the San Francisco Bar Association for the time being, but is still interested in working with the Association.

USCG and others agency forums

Mr. Marwedel reported that a follow up meeting is to be scheduled with the Coast Guard and domestic pollution insurers, and that Cal Lederer of the Coast Guard has suggested that the Association assist the Coast Guard with developing guidelines for one-man investigative boards. He also reported that MARAD has suggested a similar forum. Mr. Volkle was asked to discuss this with Denise Krepp of MARAD.

Open Houses at May Meeting

President Bonner reported that a German law firm is holding an open house. Since this was open to all members of the Association, advertising this on the MLA website did not run counter to the Association policy regarding private parties, whereby only events open to the entire membership are listed.

REPORTS

Report on Hawaii Meeting

Ms. Zawitoski reported that the room nights at the hotel reserved for the Fall Meeting are already 84% booked, and encouraged everyone to book their rooms quickly. She also reported that the planning committee had arranged good rates for people that wanted to come early or extend their stay, including those who wanted to go to other islands.

American Marine Highways

Mr. Farrell reported on the report of MARAD to Congress regarding American Marine Highways. MARAD reported that while there were definite environmental and economic benefits to encouraging more marine traffic, growth in this area would probably require government expenditure in the form of tax credits to shippers and tax benefits and loan guarantees to build ships. The Inland Waters and Towing Committee will continue to study this issue.

CALENDAR

MLA Summer Board Meeting- August 12-14, 2011- Gettysburg

President Bonner announced that there would be a long range planning session at this summer's Board meeting.

ADJOURNMENT

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

Harold K. Watson
Secretary