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THE MARITIME LAW ASSOCIATION
OF THE UNITED STATES

SPRING MEETING, MAY 4, 2012

PRESENT:

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

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Julia Adams	Samuel P. Blatchley
Stephen A. Agus	Denise Savoie Blocker
Frank J. Anders	Christina Bolmarcich
Charles B. Anderson	Richard A. Branca
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George William Birkhead	William E. Cassidy
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James Patrick Cooney	R. Monica Hennessy
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Henry B. Feh	Trey Kelleter
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Robert B. Fisher, Jr.	Sandra Kelly
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Michael A. Orlando
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J. Powell
Edward Powers
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Anthony J. Pruzinsky
Salvador J. Pusateri
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Lennard Rambusch
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Eduardo Real
Luke M. Reid

William J. Riviere
Edwin D. Robb, Jr.
Cathy S. Roberts
C. Kent Roberts
Thomas S. Rue
Thomas A. Russell
John Ryan
Michael J. Ryan
Charles E. Schmidt
Douglas Schmitt
Gordon D. Schreck
Janis G. Schulmeisters
Pamela L. Schultz
Dieter Schwampe
Jonathan J.B. Segarra
James A. Saville
David J. Sharpe
Scott Sheffler
Louis P. Sheinbaum
Charmin Shiely
James Shirley
David F. Sipple
David W. Skeen
Frederic N. Smalkin
Kevin Beauchamp Smith
Steven L. Snell
Michael Stern
Douglas Stevenson
Norman Stockman
William T. Storz
Kristin Stringer
Michael F. Sturley
Dong-Hee Suh
Norman Sullivan
Tom Sullivan
Michael L. Swain
Joseph C. Sweeney
Paul Tecklenburg
Kevin Thornton
Joseph D. Turano
Alan Van Pragg

Charlotte Valentin
John Vayda
David N. Ventker
Arthur Volkle
David R. Walker
Rahul Wanchoo
Patrick Ward
Kevin P. Walters
Deborah C. Waters
William H. Welte
James F. Whitehead
Andrew C. Wilson
Erich Wise
Robert J. Zapf
Pamela Zarlingo
JoAnne Zawitoski

And the following nine guests:

Sarah Derrington
Ahmet Endogin
Henry B. Feh
Nigel Frawley
Aage Krough
Helen Noble
David C. Reeves
Marianne Scheuber
Douglas Schmitt

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PROCEEDINGS

MR. BONNER: I'd like to call the meeting to order. Welcome to New York. The rain has stopped. It's a beautiful day. A lot more beautiful for some of us than others.

(Laughter).

I'd like to start by calling for the Secretary's report.

MR. WATSON: Thank you, Mr. President. First, a few housekeeping details as always. If you haven't signed in, please do so, and hopefully legibly. Last time we had a couple people whose names we simply couldn't read.

If you are going to be speaking, please give a card to the court reporter when you come up to speak so that we can identify you in the Proceedings. And speaking of the court reporter -- our court reporter is Celeste Mack, who is being provided by Tommy Crites in Savannah. They do this free of charge to the Association and it's a great benefit to us, and the best way of showing our appreciation is to send them some business, so if you need a court reporter in that area or, really, anywhere around the world, give them some thought.

I think most of you have now received the most recent edition of the Proceedings and the MLA Report. The editors of the MLA Report are Chet Hooper and David Nourse, and they've done a wonderful job in putting together a very good publication that provides a lot of information. I'd also like to thank three of our young lawyers, Pat Ward of Mobile, Art Severance of Los Angeles, and Corey Greenwald of New York for their assistance in putting this publication together.

The Board of Directors has met twice since our last General Meeting. Most of you probably know that the Board of Directors meets four times a year. We meet in conjunction with the General Meetings in New York or wherever else the fall meeting is, and then we meet in March and in August. We try to have the March and August meetings in cities where we have a substantial number of members so that the members of the Association can get to know the leadership of the Association.

Well, we met in March in Norfolk. The Norfolk bar really outdid themselves and set a very, very high standard with virtually every member of the Norfolk maritime bar and all the federal judges in Norfolk present at the cocktail party we had the evening before the meeting. Eddie Powers and his colleagues in the Norfolk bar put that together, and they really need to be commended for helping us have a wonderful meeting.

The Board has been dealing with a number of issues. As most of you know, a number of years ago we created a law student class of membership for law students who were interested in maritime law and in belonging to the Association. We've had a problem with dues collection of these members because they tend to move and change their e-mail addresses, and they simply don't get invoices. And so we have changed the bylaws so that law student members will pay their dues on a one time basis when they submit their application.

We have also been dealing with Proctor status, and have done a few things to make it easier to become a Proctor in the Association. One thing we want to encourage is for our Academic members to become Proctor members so they can be eligible for leadership positions, and so the application form has been amended to make it clear that Academic members are eligible to apply for Proctor status. Secondly, we amended the rules to allow the Board of Directors the discretion to grant Proctor status without the recommendation of the Proctor Admissions Committee. And finally, one of the criteria to qualify for Proctor status is to have 20 hours of qualifying CLE and under the rules as previously existed you only got one half hour for each hour of attendance, and we've changed that so now you get the full credit for every hour of CLE that you attend.

In another matter, the Board voted in favor of filing an amicus brief in the case of *Lozman vs. City of Riviera Beach*, which is a case out of the Eleventh Circuit dealing with what constitutes a vessel. There is a split in the circuits, with the Fifth and Seventh Circuit having held that the intent of the owner is a relevant factor in determining whether a structure is a vessel and the Eleventh Circuit going the other way. So obviously this was an issue of uniformity that we felt we should take a position on. There was also some concern that having a subjective test for vessel status could have broad implications in maritime law, particularly in the area of marine finance. So we'll be filing a brief in that case.

The Association has also been asked to comment on the proposed Choice of Court Convention. This convention has been proposed to assist in the enforcement of US judgments abroad. The State Department's proposed model is based on something called cooperative federalism. Some concern was expressed whether this convention was necessary, but we'd like to cooperate with the State Department because we need their cooperation at times. So we're going to communicate our approval of this convention in principle, but express the view of the Association that we are concerned about this notion of cooperative federalism, since if it was extended to other areas it could have an impact on uniformity, which is, of course, a great concern of this Association.

As you know, the website has a Breaking News section and it was envisioned that this would be a place where people could put things like members changing law firms, deaths of members, awards and recognition given to members. We've received a number of requests to post such things as people being listed as Super Lawyers or Best Lawyers in America, but given the percentage of our members that have these classifications, we decided that this was probably something we shouldn't be putting on that Breaking News page.

We received a request recently to use our logo, and this called our attention to the fact that we probably should register our trademark, our logo. This is not expensive to do so we will be going forward in getting that accomplished.

Those of you who attended the meeting in Houston in 2010 will remember that we had some wonderful social functions, and this was made possible by contributions from the maritime firms in Houston. Brad Jackson was principally responsible for this, and raised more money than we could spend, so there was some money left over. Last week we had a party in Houston with the view of inviting prospective members and had a wonderful turnout. Particularly impressive was the number of young lawyers that were there, and, of course, this is the future of the Association.

Finally, on a personal note, this is my last meeting as Secretary, and it's been a great pleasure and honor to serve you in that capacity and I thank you for giving me that opportunity.

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: One thing I should mention, Robin Becker is the woman that you saw when you were checking in. She is the administrator of the MLA. When you call the MLA, you'll speak to Robin. If you send a letter to MLA, Robin will respond to it. So she knows all of your names and so say hello to her so she can put a face to the name.

Next I'll call upon Bob Connor for the Treasurer's report.

MR. CONNOR: Second housekeeping detail. Just like a Broadway theater, could you put your cell phones on mute or vibrate or whatever so we don't hear your sounds during the meeting.

The state of the MLA's bank account is very good. Our dues collections are coming along well. We've collected about 55% of the current year's dues. As you all know, we delayed the invoices this year because, thanks to a push from the Board and especially Skip Volkle, we now take credit cards. And we needed to get that matter set up and running before sending out the invoices, and as you know, when you got your invoices you can now pay your dues by credit card and you can pay for the dinner and you'll be able to pay for the resort meetings by credit card. So for those of you who are storing up your American Express points and MasterCard points, you got a benefit out of this.

The system seems to be working well. There are a few glitches, as with everything else new, but we are very happy with it. I will be sending a letter out this month to all those people who forgot to pay their dues, or those who don't like receiving their invoices by e-mail, but we send the first two rounds out by e-mail attachment because we save a

fortune, quite frankly. Every time we send a mailing, it costs us over a thousand dollars just for a regular letter to the members.

So if you haven't paid your dues or you're not sure if your partners have paid the dues for you, you'll be getting a letter. But check first, go on the website and pay it by credit card, whatever.

We also have come to the 21st century. We are now scanning the checks instead of making a manual trip to the HSBC to deposit them. This makes things much quicker and easier, and as Robin is the one who does this, it gets your dues updated faster on the website, so we are making progress.

Bob Clyne will be talking about the dinner in November, but out in the other room there is a DVD of the band that will be playing for us on November 9th, so when you make that bathroom or coffee trip, you might take a look at it.

And that's my report, Mr. President. I move for its adoption.

MR. BONNER: Is there a second?

MEMBERS: Second.

MR. BONNER: All in favor?

MEMBERS: Aye.

MR. BONNER: Great. Thanks, Bob. Next I will call on Dave Farrell, Membership Secretary.

MR. FARRELL: Thank you, Mr. President.

Good morning. One of the great things about being Membership Secretary is that in my official capacity I get to crash the Young Lawyer's parties and that way I don't look like a creepy old leech. They're a lot of fun and I was very pleased that so many of them took us up on our invitation to submit Proctor applications, as did 30-year members of the MLA from New York and all across this great country of ours.

We, in fact, have 54 new Proctors as of today. And I'm going to ask your indulgence to continue the tradition of reading their names here because it is an accomplishment, and according to our bylaws, Proctor status confers eligibility to take a leadership role in our committee system, which is really the heart and soul of the Association.

So congratulations to:

Larry E. Altenbrun, Seattle;
Timothy E. Annin, New Jersey;
Noreen D. Arralde, Jersey City;
Elizabeth P. Beazley, Long Beach;
Lili F. Beneda, New York;
Robert B. Birthisel, Tampa;
Richard A. Branca, Houston;
Christine Z. Carbo, Houston;
Robert C. Chiles, Palo Alto;
John H. Cigavic, San Francisco;
Attilio M. Costabel, Miami;
Commander Michael T. Cunningham, Miami;
Dong-Hee Suh, Korea;
C. Ryan Eslinger, Jacksonville;
J. Rice Ferrelle, Jr., Jacksonville;
John K. Fulweiler, Rhode Island;
Kelly M. Haas, Galveston;
Jerry D. Hamilton, Miami;
Christopher R. Hart, Houston;
Timothy W. Hassinger, Louisiana;
Jeremy A. Herschaft, New York;
Michael B. Holt, Princeton;
Lisa M. Houlihan, Alameda;
Brian Keane, Boston;
Terence G. Kenneally, Boston;
Michael A. Khouri, DC;
James P. Koelzer, Los Angeles;
Joseph F. Kulesa, Pennsylvania;
Marc I. Kunkin, New York;
Charles J. McCarthy, Massachusetts;
Michael F. Merlie, Pennsylvania;
Elissa M. Mulrooney, Memphis;

Charles E. Murphy, Connecticut;
Thomas C. Murphy, New York;
Charles P. Neeley, Philadelphia;
Christopher R. Nolan, New York;
Gregory W. O'Neal, Memphis;
Patricia M. O'Neill, Secaucus;
Richard E. Ottinger, Norfolk;
Joseph J. Perrone, New York;
James B. Re, Boston;
Chris P. Reilly, Seattle;
David Russo, San Francisco;
Lawrence Rutkowski, New York;
William P. Ryan, Chicago;
Richard F. Salz, New York;
James A. Saville, Jr., New York;
Steven L. Snell, Baltimore;
Douglas W. Truxillo, Louisiana;
Christoph M. Wahner, Los Angeles;
Jared A. Washkowitz, Honolulu;
Jon W. Wise, New Orleans;
James E. Wright, III, New Orleans; and
Wayne G. Zeringue, New Orleans.

I thank you. That's A to Z.

MR. BONNER: I think they deserve a hand.

(Applause.)

MR. FARRELL: The Board of Directors has also approved, since the Hawaii meeting, 56 new Associate Lawyer Members, a dozen Law Student members and five new Non-Lawyer members. The Non-Lawyer members are:

Roger F. Ablett of Allianz;
Dick Basom of SEA, Limited;
Michael T. Monahan of Aereon Marine;
Randy O'Neill of MOPS Marine License Insurance; and
Mark Smieya of Travelers Ocean Marine.

I'm sorry, though, to report the deaths of the following members:

David J. Bederman of Atlanta;
Stephen W. Graffam of Pittsburgh;
John Stewart Harrison of Kentfield, California;
Fredric Scott London of Stamford;
Robert F. Lynch of Charlottesville;
Robert E. Patmont of San Anselmo, California;
Past President Kenneth H. Volk of Portsmouth, New
Hampshire;
Joan C. Walker of Oradell, New Jersey; and
Florrie L. Wertheimer of New York.

Let's please rise for a moment of silence.

(A moment of silence was observed.)

MR. FARRELL: That brings out total Membership as of today to 2,935, that's up 127 members from a year ago. And that brings me to my usual plea. We will have a lot of retirements in the next couple years and it's very important that we replace those members with vibrant new members. Young Lawyers and not so young lawyers as well. I'm sure that you know people in your firms and your regions who are just waiting to be invited to join the MLA, and it's this word of mouth that is really the best recruiting tool that we have. So please, make a point of trying to bring in some new members so that we can continue to make the MLA a thriving organization.

Finally, I'd like to extend my thanks for the leadership that President Bonner has shown on big policy issues and mundane tasks. His dedication to the MLA is contagious and very much appreciated.

Thank you.

MR. BONNER: Thank you, David. That last one was uncalled for, but . . .

(Applause.)

MR. BONNER: Is there a second to David's report?

MEMBERS: Second.

MR. BONNER: All in favor?

MEMBERS: Aye.

MR. BONNER: I'd like to recognize a few of the dignitaries in the audience starting with Rear Admiral Fred Kenney, who is the Judge Advocate General of the United States Coast Guard.

(Applause.)

MR. BONNER: Next to him is Rear Admiral Select Steve Poulin, Chief of the Office of Maritime and International Law of the Coast Guard.

(Applause.)

MR. BONNER: Steve's replacement, Captain Melissa Bert, who I'm sure we're going to see a lot of in the next two years.

(Applause.)

MR. BONNER: We are very happy to have Sarah Derrington, President of the Australian/New Zealand Maritime Law Association.

(Applause.)

MR. BONNER: I don't know if Austin Dooley is here or not, I don't see him. We have Nigel Frawley, Secretary General of the Comité Maritime International here.

(Applause.)

MR. BONNER: Chris Giaschi, President of the Canadian Maritime Law Association.

(Applause.)

MR. BONNER: Helen Noble, President of the Irish Maritime Law Association.

(Applause.)

MR. BONNER: Dieter Schwampe, Past President and Future President of the German Maritime Law Association.

(Applause.)

MR. BONNER: And also we have one of our own who made good, Bill Graffam. Bill Graffam was elected president of the --

MR. PARRISH: Instituto Iberoamericano de Derecho Maritimo.

MR. BONNER: A fellow American institute of maritime law. This group was founded in 1987 and has members in more than 20 Iberoamerican countries and they are an advisory member of many of the major international maritime law associations, including the CMI and IMO, and we welcome them and all their other members who are here, if they could just stand, the other members of the IIDM.

(Applause.)

MR. BONNER: And I will be leaving it up to others, but our Puerto Rico meeting will be a joint meeting with the IIDM, so we're really looking forward to that.

So why don't we start with the committees starting with Arbitration, Keith Heard, to be followed by Bankruptcy, John Bradley.

MR. HEARD: Mr. President, the Committee on Arbitration and Alternative Dispute Resolution has met twice over the past six weeks. On March 28th we met at the offices of Carter, Ledyard & Milburn on Wall Street to discuss several topics, including the status of maritime arbitration in Singapore, which is now competing with

other international centers for business; the possible development of a dedicated International Arbitration Center here in New York; and a report from the liaison subcommittee that exists between our committee and the Society of Maritime Arbitrators in New York.

The liaison subcommittee interviewed users of the arbitration system concerning their perception of maritime arbitration in the United States, and found that the users generally had a favorable impression of the process and the results, but felt that those involved with maritime arbitration in this country needed to do a better job of getting the word out so that shipowners, charterers and charter party brokers overseas were aware of the merits of our system. We discussed in our meeting how it might be possible to do that given that US maritime arbitration centers lack government funding unlike some of our foreign competitors.

On Wednesday of this week the committee met at the offices of Seward & Kissel in lower Manhattan. We had 48 people attend in person and four others listening in over the telephone. The program for this week's meeting had three components. First, Helen Noble, who has already been introduced, presented a paper and spoke energetically about mediation, including maritime mediation, in Ireland. It was clear from Helen's remarks that there are many court rules in place in Ireland that favor the use of mediation and that the judges there have the power and certainly the inclination to steer parties in civil disputes to mediation.

Next, Lindsay East of Reed Smith in London spoke about a complex but interesting jurisdictional situation that exists in the European Union. English courts have traditionally granted anti-suit injunctions in aid of arbitration, including maritime arbitration in London. However, England is now part of the European Union and the European Court of Justice has circumscribed the ability of the English courts to grant injunctions against proceedings in other members of the European Union.

Lindsay spoke, in particular, about a case involving the vessel FRONT COMOR, which hit a dock in Italy, resulting in an arbitration in London and a court case in Italy. It also resulted in judicial proceedings in England which went up to their Supreme Court and then to the European Court of Justice, which as I understand it, ruled that England could not issue an anti-suit injunction to protect the arbitration. As a result, the court case in Italy could and did go forward, so you had

parallel proceedings arising out of one casualty. All of this prompted one member of our committee to say that the current situation in the European Union resembles what we had in this country under the Articles of Confederation before we came to our senses and adopted the Constitution.

Finally, we had a presentation concerning a case decided by the Second Circuit Court of Appeals in February. The case grew out of a large reinsurance arbitration between St. Paul and Scandinavian Re. Two of the three arbitrators in the case were involved in another similar arbitration involving a company named Platinum, in which a witness in the Scandinavian Re case also testified. However, it seems he testified one way in the Platinum case and the opposite way in the Scandinavian Re case. The two arbitrators knew this, of course, but they failed to disclose to the parties in the Scandinavian Re case their service in the Platinum arbitration. After the two arbitrators rendered a huge award against Scandinavian Re, that company moved to vacate the award in the Southern District of New York on the ground of evident partiality, and Judge Scheindlin granted that relief and vacated the award. On appeal, the Second Circuit held there was insufficient evidence of evident partiality and reinstated the award.

Two members of our committee presented the opposite sides of the case. Leo Kailas of New York presented and defended the district court's vacatur of the award, and Jamie Kleiner, also of New York presented and defended the Second Circuit's reversal. Leo said the arbitration award, which was non-maritime by the way, smelled like five-day old dead fish and many members of our committee, including yours truly, agreed with that.

I would like to remind everyone here that the International Congress of Maritime Arbitrators will hold its 18th biannual conclave in Vancouver from May 13th to May 19th. It's right around the corner but there's still time to register and attend. Several members of our committee have been active in the planning and preparations for the meeting, including Manfred Arnold, David Martowski, LeRoy Lambert and Michael Marks Cohen.

As a final point, the committee would like to thank Don Kennedy of Carter Ledyard and Bruce Paulsen of Seward & Kissel for their hospitality in making conference rooms available for our meetings.

Mr. President, that concludes my report.

MR. BONNER: Keith, on behalf of the Maritime Law Association, I'd like to present you with this certificate to recognize your outstanding service the past four years as chair of the Arbitration Committee. Thank you for everything you did.

(Applause.)

MR. BONNER: Keith mentioned some of the lawyers who spoke at his meeting. This year we went out of our way and tried to invite a number of foreign lawyers to address our committees. I'd like to read some of their names so if you see them tonight you can say thank you. Helen Noble of Ireland, Dieter Schwampe and Jan Dreyer of Germany, Jan Kromhout and Haco van Oordt of the Netherlands, Aage Grogh of Denmark and Matthew Wilmshurst and Lindsay East of the UK. We're going to continue this and try to get more and more foreign lawyers to attend our meetings.

Next I'll call on John Bradley, to be followed by Carriage of Goods, Ed Radzick.

MR. BRADLEY: Thank you, Mr. President. First, as a note of protest, I thought we had agreed that the name of this committee was going to be the Committee on *Maritime* Bankruptcy, which would allow me and future chairmen to arrive late to the General Meeting.

(Laughter).

I am John Bradley, Chairman of the recently formed Committee on Maritime Bankruptcy and Insolvency. I am pleased to report that we held our inaugural meeting yesterday at the offices of Vedder Price.

Since the committee was first announced by you several months ago, approximately 30 of our fellow MLA members joined the committee. Our meeting yesterday drew nearly 50 attendees, including a number of

individuals who are not now members of the committee, but indicated a desire to join. I expect our numbers to grow significantly in the weeks and months ahead.

I should mention that Kevin Walters of Chaffe McCall in Houston has graciously agreed to serve as the first secretary of the committee and took the minutes yesterday. I expect to have a vice chair in place within the next month or two.

The formation of this committee at this time is fortuitous. As we all know, the shipping industry has experienced numerous economic cycles over the years. Since 2008, the 2008 financial collapse, the shipping industry has suffered through a classic bust cycle characterized by depressed freight rates, charter rates, depressed asset values, overcapacity and tremendous strains on liquidity. The industry's traditional sources of finance have been likewise plagued by their own liquidity problems. The confluence of these events have resulted in an untold number of privately negotiated restructurings, workouts and refinancings between shipping companies and their lenders, and a spike in cross-border bankruptcy filings by shipping lines. It's no mistake that many international shipping lines seeking to restructure seek the assistance of U.S. bankruptcy courts. Since 2008, at least two-dozen international shipping companies have sought the assistance of US bankruptcy courts under Chapter 15 of the Bankruptcy Code. During that same period, well over a dozen maritime companies – owning or operating over 100 vessels – have filed petitions to reorganize in U.S. bankruptcy courts.

For many years, U.S. maritime lawyers have faced the challenges of cross-border shipping bankruptcies. At our meeting yesterday, many current issues and developments were discussed. We also listened to an excellent presentation by Mr. Haco van Oordt of AKD in Rotterdam concerning the treatment of cross-border insolvencies in the Antwerp-Rotterdam-Amsterdam or “ARA” region of Europe. He also spoke to us about the favorable priorities granted to ship mortgages that are enforced in the Netherlands. Following our discussion, I proposed the formation of a working group to study cross-border insolvency issues of consequences to the maritime community. The suggestion was well received and a number of volunteers stepped forward. I expect this working group to be up and running in the very near future.

As the newest standing committee of the Association, I'm also mindful that our committee must find its way alongside other and older more established committees of the Association – including Marine Financing and Practice and Procedure – as these standing committees also delve in bankruptcy and insolvency matters as part of their regular committee work. In this regard, we have been in discussions with Marine Financing to establish a joint subcommittee on workouts and restructurings. This idea was also discussed at our meeting yesterday and it, too, was well received. I expect this subcommittee to be up and running within the next month or two.

Mr. President, the Committee on Maritime Bankruptcy and Insolvency is off to a good start. That concludes my report for today. Thank you.

MR. BONNER: Thank you very much, John.

(Applause.)

MR. BONNER: Carriage of Goods, Ed Radzik, to be followed by Cruise Lines, Bob Peltz.

MR. RADZIK: Good morning, Mr. President, members of the Board of Directors, officers of the Association, members of the Association, and guests.

The Carriage of Goods Committee met on Wednesday, May 2nd, at the business center of Chartis Insurance Company, located at 180 Maiden Lane, New York. I would like to extend our thanks to Susan Dorgan for arranging the business center for the meeting. It's an ideal spot for the meeting. We had about 50 in attendance and several others on the telephone.

We had the privilege of three international speakers, Mr. Aage Grogh of Copenhagen, Matthew Wilmhurst of London and Helen Noble of Dublin, Ireland. Mr. Grogh's subject covered the comparison of German and Danish law on the issue of willful misconduct and its impact on the carrier's ability to limit or protect its liability. He also spoke about

enforcement of declaratory and negative judgments in countries in the European Union. Our thanks go out to Mr. Grogh.

Our second speaker was Matthew Wilmshurst of Holman Fenwick & Willan in London and he spoke on multimodal bills of lading and how the courts in the UK have interpreted various provisions in bills of lading, including the carrier's right to limit its liability and to extend its protections to subcontractors such as stevedores and inland transportation providers.

Our third speaker was Helen Noble of Dublin, who provided us with an overview of the laws governing the carriage of goods under the laws of Ireland and how the courts in Ireland have interpreted the Hague Rules and the Hague Visby Rules and the 1855 Bills of Lading Act adopted earlier in English law. Again, we thank Helen, Matthew and Aage for their presentations.

Professor Michael Sturley provided us with a status report on where the Rotterdam Rules stand in terms of possible enactment in the United States. The Rules are still within the State Department, and have not been presented to the President or the Department of Justice or the Department of Transportation. Michael hinted that there's a small window of opportunity for possible enactment of the Rotterdam Rules in November after the election when there may be a time when noncontroversial legislation such as the Rotterdam Rules may get some attention in Washington.

Liz Burrell, just back from Singapore, gave a report on the BIMCO meetings held there and the likely effect some of the resolutions reached by those meetings will have on contracts for the carriage of goods. The committee is grateful and thanks Liz and Michael for their contributions to the meeting.

Mike Ryan delivered copies of the latest Cargo Newsletter, No. 59, which contains a summary of half a dozen decisions from ports around the United States. Thanks to Mike and David Mazaroli, who collects the decisions from various jurisdictions and sends them to us for consideration for inclusion in the Newsletter.

That concludes my report. Thank you.

MR. BONNER: Thank you very much, Ed.

(Applause.)

MR. BONNER: Bob Peltz, to be followed by Fisheries, Kevin Thornton.

MR. PELTZ: Thank you, Mr. President.

Good morning. I'm pleased to report that the Cruise Line and Marine Torts committees held a joint meeting attended by approximately 100 people at the offices of Seward & Kissel, whom I'd like to thank for their hospitality.

The focus of our meeting was a series of presentations and a subsequent panel discussion concerning the different ramifications of the COSTA CONCORDIA. Brian McEwing spoke about the navigational and maritime issues, Lisa Reeves, the chairman of the Marine Torts Committee spoke on limitation issues, and Attilo Costabel explained Italian law to us. Our committee co-chairman Sean O'Neil talked about the industry response and the governmental response to the casualty. Michelle Otero Valdés educated us all on the insurance aspects of the disaster, and I spoke on the ticket issues and the status of US litigation.

We also had a very interesting presentation by Paul Hoffman concerning the Supreme Court case involving when is a houseboat a house and when is it a boat or a vessel, which has broad ramifications in many areas of the law.

Finally, Paul Edelman brought us all up to date with regard to recent changes in the Athens Convention. Our committee has publishes a newsletter approximately three times a year. The latest newsletter was presented at the meeting, and consisted of a series of three articles on the Athens Convention and an update on case law. There were some that were available at the sign-in area, it's also posted on our website if anyone would like a copy.

Thank you very much, Mr. President.

MR. BONNER: Thank you very much, Bob. This is a very active committee and Bob is doing a great job. Fisheries, Kevin Thornton, followed by Inland Waters and Towing, David Ventker.

MR. THORNTON: Good morning, President Bonner, officers, directors, members and distinguished guests. My name is Kevin Thornton. I'm the chairman of the Fisheries Committee. Yesterday we met from 11:00 a.m. to 1:00 p.m. at the offices of Reed Smith. I'd like to thank Reed Smith and Lars Forsberg for their hospitality in providing very comfortable accommodations, audio/visual support, a free lunch and the best chocolate chip cookies in New York City.

We had great attendance for us. We remain a small but robust and enthusiastic committee. Our numbers are only close to about 45, but we had 16 people attend in person, and five people phoned in. And as I've been doing for the last couple of years, I like to devote a few minutes to allow everyone to introduce themselves, explain who they are, where they're from, what type of work they do generally, and if they have a success that they can boast about, we give them a platform to do that. That makes the meeting more cordial, and provides the opportunity to get to know your colleagues, since I think one of the major benefits of the MLA is the people who are interested and accomplished and cordial in helping you.

After the introductions, we started out with a presentation from our co-secretary David Smith. David did a presentation on the enforcement of maritime liens and mortgages, which might seem mundane but it's always challenging because we have the continuing issue of whether or not fisheries permits are appurtenances subject to arrest, foreclosure and sale. It's always interesting and seems non-ending.

We next had a very interesting and timely presentation by Stephen Ouellette on the topic of NOAA law enforcement and the disturbing trend towards criminalization of federal fisheries management and enforcement. In recent years, there's been much enthusiasm, frankly, from our perspective, by the US Department of Justice to get involved in fisheries violations, and now they're looking at using the Lacey Act in a case that we have pending in my firm in New Jersey.

Stephen Ouellette and I and my partner Bill Hughes are working on one case in New Jersey federal court which involves scallop fishermen. We have another New Jersey federal case in our office involving oyster fishermen who are charged with not just Magnuson Stevens Act violations, but also Lacey violations, and they are facing not just penalties but substantial sanctions, fines and jail.

And it's to the point where you need to team-up with an accomplished fisheries attorney, and also someone who is a member of the bar able to do white collar crime and also organized crime defense. So it's a serious matter and you have generally still small mom and pop organizations that are being prosecuted by the federal government. Of course, we don't sanction wrongdoing, but it seems like a lot of the stuff, it should have Magnuson Stevens Act regulations and enforcements and not involved the criminal realm. So that was an important and timely presentation.

We did next what I call "New Tradition: The Fisheries Committee's Case Analysis and Brain Storming Roundtable." I'm trying to take advantage of the talent and the good people in the room. We had two issues that were brought up and discussed and we got to pick the brains of some good folks.

We then had a discussion by Steve Johnson of Seattle, one of our former chairmen, on 46 CFR Section 67.21 and the fishery endorsement issues. We had a presentation of our Fisheries Committee Case Law Summary which was prepared by Terence Kenneally and Kirby Aarsheim. Congratulations to Terry, one of our new Proctor members, and Kirby is a new member. They always do a good job and that's available on the website and that's published too.

And finally, we had a special speaker, and this is what David Farrell was talking about earlier. I was able to invite, and get a "yes," from a speaker that the Fisheries Committee has been interested in for many years. He's one of the leading attorneys in the US in fisheries management and litigation, but for a combination of reasons he hasn't been able to get involved in the MLA. His name is David Frulla, and he was accompanied by his associate Michele Hallowell, both of Kelley Drye in Washington, D.C. They gave an outstanding presentation

on coastal marine spatial planning and we were pleased that they were able to attend. They got to meet some good people and I'm optimistic, David, that we'll get both of those folks involved.

And we did some old business which I won't get into, but I also wanted to thank Lieutenant Brendan Sullivan from the United States Coast Guard. He was able to assist us in getting information about the Coast Guard's response to the National Transportation Safety Board's report of November, 2011 about safety issues affecting the commercial fishing industry, and we thank Lieutenant Sullivan for his assistance.

That's my report.

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

MR. VENTKER: Thank you, Mr. President. Inland Waters and Towing met at the offices of McAllister Towing on Wednesday and we had about 30 members in attendance.

David Farrell presented a report on progress of America's Marine Highway and what we learned is that there is no progress. It looks like legislation is stalled in Congress, nothing is going anywhere. There are a few small operations that have relied on government subsidies to operate main and short sea feeder lines and about half of them are now out of business, so there is some hope that the opening of the wide Panama Canal next year may provide an impetus to move some of the legislation through Congress, but right now nothing is happening.

Gene George provided us with an update on the migration of Asian carp up the Mississippi River headed towards the Great Lakes. He reported that the current signs shows that the carp are migrating 40 to 50 miles northward a year. In parts where they are endemic in the Mississippi River, they take about 95% of the biomass in the river.

The states have been suing each other, Michigan and Illinois have been suing each other and the Supreme Court has basically shut those efforts down and refused to grant any relief, so they're now moving

into the political arena trying to get help through Congress, through the Army Corps of Engineers, that kind of thing, and people basically see a very bloody fight ahead.

One of the things that Gene discussed was the attempts to shut down the Chicago canals that feed into the Great Lakes because that's the primary entry or feared entry of fish into the Great Lakes. And shutting that down will shut down about 18,000 barge moves a year, so the odds of that happening are not very good. And Gene reported that that's only 1 of about 18 access points in the Great Lakes from the river system. I'll put Gene's report on the website, but I do notice he has no recipes for Asian carp and he said it can't be done.

Kent Roberts and Charmin Shiely provided us with a report on the status of the Coast Guard's Notice of Proposed Rulemaking for bringing uninspected towing vessels into the inspection world based on the law passed by Congress in 2004 to do that. The public comment period is closed and what we learned is that most industry comments are basically favorable. The industry is behind this process. Some of the issues that they're concerned about deal with the vessel safety management systems and whether that's going to be industry driven or driven by the Coast Guard. Another issue is who are going to be the inspectors because the Coast Guard certainly doesn't have the manpower for it, but there is no regime in place right now to train certified inspectors.

That was related to a case reported to us by Kent and Charmin out of the District of Hawaii, *Habel v. Grove Farm Fish & Poi*, and actually the decision and the reconsideration opinion from this April involves the District of Hawaii concluding that uninspected towing vessels based on the 2004 legislation are, in fact, subject to inspection and so they have to follow all the rules related to inspected vessels even if they're not, in fact, inspected. That's going to turn some things on its ear, but probably not for very long when the rules from the Coast Guard actually take effect.

And finally, Buckley McAllister gave us a summary of current legislative efforts and regulatory efforts that follow on the reports from Gene, Kent and Charmin, and I will post all of those things on the website when I get back to the office next week.

And that concludes my report.

MR. BONNER: David, on behalf of the MLA, I'd like to thank you for your services as chair of the committee and your leadership in the committee. Well done, thank you.

(Applause.)

MR. BONNER: International Organizations, Conventions and Standards, Alan Van Praag.

MR. VAN PRAAG: Thank you, Mr. President. We had an excellent meeting yesterday with 42 members and guests attending.

Our first speaker was Chris Davis. Chris spoke about the topics that are going to be discussed at the CMI Beijing meeting being in October held this year, and I want to encourage anybody who can make this meeting in October to attend. It's going to have some very, very interesting topics and a very interesting program.

He indicated that the maritime law associations for the various states will vote on changes to the York Antwerp rules, the 1989 Salvage Convention, and judicial sale of ships. Other topics to be discussed will be the Rotterdam Rules, cross-border insolvency, piracy, Iran sanctions, Arctic and Antarctic issues. Environmental salvage issues will be of high importance, with salvors asserting that Sections 13.1 and 14.2 of the Convention cannot provide sufficient remuneration for providing a safety net for the environment. They also will discuss the fact that the SCOPIC terms provide only a partial safety net and do not sufficiently remunerate salvors.

With regard to salvage and the changes to the current convention, Chris spoke about changing Rule 6 by providing that salvage would include general average and changing Rule 11, which would reintroduce crew wages in general average. We also discussed further probable changes to the Salvage Convention including broadening the scope of its application, striking Article 13.1, including in Article 14 a shift of payments to the shipowner or the P&I Club, and broadening the criteria for environmental salvage with regard to the cap on salvage awards. With

regard to the cap, the award is to be left entirely to the discretion of an arbitration panel. The CMI did not want an arbitrator cap to the salvage award. Sixty countries have now ratified the Salvage Convention and the working group includes representatives of all stakeholders. Chris also emphasized there will be an extension of the Beijing meeting in Shanghai over the weekend after the Beijing meeting concludes.

Our next speaker was Admiral Designate Steve Poulin, to whom we definitely gave our congratulations. He spoke about issues at the IMO and others. The first topic that Admiral Poulin spoke about was the 1976 Convention on Limitation of Liability for Maritime Claims, or LLMC. Australia proposed an increase of the LLMC limits by 6% a year as a result of the exposure that they have sustained with regard to several incidents of pollution. A figure of 5.1% per year was introduced by Japan and agreed upon to come into effect in 2016. Admiral Poulin did not know if the Australian parliament would support this.

The next topic he discussed was trans-boundary pollution, which was introduced by Indonesia and the consensus was that there is no compelling need for such a regulation.

A third issue in which the United States is very much interested in was the voluntary collection of evidence guidelines concerning violent crime at sea, particularly on cruise ships. This is a topic where the US had tremendous input and, in fact, had FBI agents to assist the delegations with regard to aspects of this proposal.

Another issue was to refine draft guidelines for private contractors as armed security to act in self-defense against pirate attacks. This was a very controversial issue as to which many parties had different viewpoints regarding allowing vessels with arms aboard into ports or the Suez Canal.

After that, Admiral Poulin went on to discuss the Law of the Sea Convention meeting in Washington. He indicated that the Convention is supported by the administration, industry interests, and the security departments of the United States. There is hope to have hearings this spring before the Foreign Relations Committee and it's hoped that they will vote the treaty out of committee and present it for a vote on the floor.

Helen Noble of Ireland spoke about the UNCTAD Port Training Program, which develops port capacities in various underdeveloped countries to provide a trained infrastructure. She explained the manner in which the Irish government carried out the program, in which she had a personal involvement, and recited how effective this program is to underdeveloped countries seeking to develop their port industry.

Our next speaker was John Kimball, who is chairman of a subcommittee on CMI, who reiterated the points made by Chris Davis and reminded all members of the MLA to attend the CMI meeting in Beijing.

The next speaker was Doug Burnett, who is chairman of our subcommittee on the Law of the Sea Convention. He attended the meeting in Washington concerning this issue and confirmed what Admiral Poulin stated as far as support of most senators for passage of this treaty. The only opponents of the treaty appear to be certain Republican senators who have conservative views with regard to the effect of this treaty upon the United States interests. Doug related that hearings are planned in May by the Senate Foreign Relations Committee and advised that the MLA is continuing its strong support in a revised letter to the Senate Foreign Relations Committee when they have the hearings.

The next topic related to the Choice of Court Convention, which Hal mentioned earlier, and we had a very interesting presentation by Liz Burrell in support of the MLA position, which supports the Convention but opposes the implementation instrument that is being offered by the State Department. The implementation instrument utilizes what the State Department calls cooperative federalism, by which there is one federal statute for the implementation of the Convention, but each state will have their own implementing statute which it is hoped will conform to the terms of the federal statute. The MLA's concern is that there will be a lack of uniformity and two bodies of law created, unlike the sole federal implementation statute under the Arbitration Act.

Michael Marks Cohen then spoke in favor of both the Convention and the implementation basis supported by the State Department on the grounds that passage of the Convention would only aid American interests in enforcing American judgments overseas in a number of states

who have ratified the Convention where the jurisdiction for the initial dispute was based upon consent. Michael and Liz both pointed out this convention is very limited in its application.

After this discussion, we heard from Ed Carlson concerning OFAC and Iran sanctions. Ed indicated how OFAC intends to be tough with third parties dealing with banks violating Iranian sanctions and with regard to insurance companies who reinsure or have coverages which may fall within the ambit of the sanctions. Ed provided a memo concerning the results of the OFAC meetings he had attended.

The final presentation was by Mike Wilson, chairman of our classification subcommittee who was unable to attend but provided a report on the state of the PRESTIGE litigation. Vince Foley commented upon the status of this litigation, as well as John Grimmer, both of whom are personally involved. The Second Circuit Court of Appeals has heard the appeal and the matter is currently *sub judice*.

That concludes my report, Mr. President.

MR. BONNER: Alan, I'd like to thank you on behalf of the MLA for your distinguished service over the past four years as chair of this committee, but you were involved in the Choice of Courts a lot longer than that, weren't you?

MR. VAN PRAAG: Twenty years.

MR. BONNER: So thank you very much.

(Applause.)

MR. BONNER: Vince Foley, to be followed by Doug Burnett.

MR. FOLEY: Thank you, Mr. President. Good morning, everyone. I have been asked to form a planning committee for a joint meeting between the MLA and the Comité Maritime International (CMI), which is scheduled to take place in 2016 in May. The MLA formally invited the CMI to hold its next General Assembly in New York in 2016. CMI president acknowledged the invitation and put it

to a vote of the CMI Executive Committee. After a virtual and e-mail meeting in April, the CMI Executive Committee voted unanimously to accept the invitation and we're going forward with the planning for the first week of May, 2016.

So I guess at this point, the only thing I'm here to tell everyone is to save the date for the first week of May, 2016. We will hopefully plan a very productive and multinational meeting. We'll have a lot of our foreign colleagues from the CMI attending that we all, I believe, have gotten to know better over the years as our cases overlap and our cases involve multiple jurisdictions.

I have started to form the committee. Chris Davis, who is a member of the CMI and likely will be appointed as a liaison from the CMI to the MLA, has accepted a role in the committee, as well as Joe Grasso of Philadelphia, Bob Clyne of New York, Charlie Schmidt of New York, and there will be others as we continue the planning.

And that concludes my report.

MR. BONNER: Thank you very much, Vince.

(Applause.)

MR. BURNETT: Mr. President, I just wanted to give additional information to the membership on the process which is unfolding with regard to the United Nation Law of the Sea Convention. As most of you know, the MLA has been a firm supporter of ratification of the UNCLOS treaty since at least 1994 and the president is presently working on a revised letter to the chairman of the Senate Foreign Relations Committee.

And the MLA is in good company. Besides the American Chamber of Commerce, we have the International Chamber of Shipping and the Financial Services Roundtable, which is all the banks. We also have major companies, AT&T, Verizon, Level Three, Lockheed, Boeing, Shell, Exxon, Mobile, PFL, CIO, virtually every environmental group and the fisheries industry have all united firmly behind it.

There is a lot of leadership being taken by the Pew Foundation. They have retained several important former senators to speak with their colleagues. In particular, if you're in Washington D.C. on March 9th you'll have a presentation with Senator John Warner and recently retired CNO Admiral Roughead and they will be having the Secretary of Defense and the Chairman of the Joint Chiefs of Staff talking about the national security advantages to the United States under UNCLOS.

You'll also find that they have also engaged the services of former Majority Leader Senator Trent Lott and Senator Breaux from Louisiana to work with their senate colleagues on some of the industry benefits that are there. There's been a tremendous amount of leadership by Secretary of State Clinton and undersecretary Thomas Nides. He has remarked to me that he's never seen any convention where there's such unanimity of support across environmental groups, labor, management, and business.

The hearings will probably begin before this month is out. Maybe one, two or three hearings, it hasn't been disclosed. And it is expected that the committee will vote to send it to the Senate. Now, we've been disrobed twice before. It was voted out of the Senate before, the first time unanimously and then Senator Frist, who was the Majority Leader, would not schedule it for a vote. It was voted on when I testified in 2007. I think it was 17 to 4 in favor, but then Senator Reid would also not schedule a vote.

So the likely situation is that it will pass the committee, then it will go up to Senator Reid again to schedule a vote, and that's the critical area, Senate time, because it is a contested treaty, so they'll probably need five days of Senate time to resolve the voting and that's a tremendous amount of time in a situation where Congress has got budgets, all sorts of issues all coming before the end of the year.

And, you know, frankly my personal view, that's shared by many people, that it will only happen if President Obama actually calls up Reid and says make it happen. He's done it before, he did it with the SALT treaty at the end of last year, so he certainly has done that. And if that happens and there is a vote, we believe that the votes are there to ratify it.

But I also wanted to just pass on three of the arguments against it. Most of these are by the American Heritage Foundation, they couldn't

be more ideological than treaty based, just because when you're going back to your colleagues and your offices you may be asked about it.

But there are three issues that they seem to be raising. One is in regard to Deep Seabed Mining Regime and the International Seabed Authority. They're saying that that would be a way to funnel money to unpopular countries or terrorist regimes, and that is actually not at all true. If you will recall, in 1994 there was an annex to the treaty to address certain concerns that the US had. And under the treaty, the United States is guaranteed a seat on the Finance Committee and the Rules Committee of the ISA, and that's important because it only acts by consensus. So essentially, the United States would have a veto if they didn't approve of any of the expenditures or any of the rules that come out of there. But of course if we're not part of the treaty, we have no power to control any of that.

The other thing that comes across is the issue of the royalties, and if you talk to the oil companies they were very instrumental in helping those royalties get established. Remember, there are no royalties for the first seven years of commercial production. After that it's 1% a year to a maximum of seven, and they said -- first of all, they said basically most of the resources you would drain in seven years, but at 7% royalty in 14 years, compared to what they pay for Texas, Louisiana, or all the other Gulf resources, that royalty is a bargain, so the American energy companies are very anxious to pursue that.

We also have the issue of dispute resolution. They're saying, well, the US is giving up their sovereignty on dispute resolution. But dispute resolution, remember all military intelligence guided activities are not part of the dispute resolution. The United States has already indicated that it will not be using the option of appearing before the International Court of Justice or the International Tribunal for the Law of the Sea, they would opt for private arbitration for those narrow category of disputes where there is mandatory dispute resolution. And by the way, the US is one of the strong components of the mandatory dispute resolution, especially for the matters of straits passage, critical points where we want to make sure that our naval vessels, Coast Guard vessels can get through. So once again, that's a positive thing.

Then the third area deals with the extension of the Continental Shelf boundaries. We have a lot of talk about the Arctic but under the UNCLOS, essentially all the natural resources of the Arctic region belong to five countries, Norway, Denmark because of Greenland, Canada, Russia and the United States. The US is the only party that has not signed, so we're not in a position to enforce our rights to the natural resources in the Arctic.

And in terms of land, US is one of the biggest beneficiaries of this treaty because the amount of area that comes under US jurisdiction with regard to natural resources, when you look at our continental boundaries, is greater than the Louisiana Purchase. So basically the treaty has a lot of advantages for the United States. We would never be able to negotiate a better deal and I think it's important that we try to have it done this year.

Opponents will say, well, you know, we should just rely on customary international law. The problem with customary international law is it's very murky, it's always changing. It depends on what the other countries think. Where if you have a treaty right which guarantees freedom of navigation, freedom to lay submarine cables, freedom of overflight, all the other rights, it's clear. And more important, if the US is a party, they're in a position to prevent amendments to this convention. And there are some countries, especially coastal states, that want to encroach, that will be trying to amend it. And if the US is not a party, you're not in a position to control the amendment process.

So for all these reasons, obviously the MLA has a lot of benefits before it, but as you go back and you'll hear this starting in May, it will be in the news and hopefully this will be the year that it gets to the floor of the Senate and we have a vote. Thank you.

MR. BONNER: Thank you very much, Doug. This has been a longstanding project of both MLA and Doug Burnett and we're right on top of it. Because of its importance I asked Fred, Admiral Kenney, if he would like to say a word or two about it also. This is a big deal for us.

ADMIRAL KENNEY: Thanks, Pat, and good morning, everybody. This certainly is a big day for all of us. Pat asked if I would

very briefly reprise my stump speech that I gave on Tuesday down in D.C. at the joint committee meeting, and I was really glad I had the opportunity to do that.

I just want to touch very briefly on some of the reasons why it's so important for the United States and the United States Coast Guard to accede to the Law of the Sea Convention and do it now. You've probably heard recently Admiral Greenert, the Chief of Naval Operations, and General Dempsey, Chairman of the Joint Chiefs of Staff, saying more and more frequently that we need the Law of the Sea to promote national security. You've heard Admiral Papp consistently say that the Coast Guard needs the Law of the Sea to promote Homeland Security and the better execution of Coast Guard missions. As Doug was just saying, business leaders have been nearly unanimous in saying the Law of the Sea will create US business opportunities and labor is now saying that accessions to the Law of the Sea will create US jobs.

I actually have been getting more and more bemused when I see some of these pundits on cable say, "Well, the Coast Guard and the Navy don't need the Law of the Sea." And then I think, well, every Chief of Naval Operations for the last 20 years has said we do need the Law of the Sea and every Coast Guard Commandant for the last 20 years has said the Coast Guard needs the Law of the Sea, so my response to the pundits is "really"? Doug mentioned customary international law, and it is our firm view that that is not enough for the Coast Guard. We need the Law of the Sea, we need to lock in those navigational freedoms that it enshrines. We need the other rights and privileges that it gives us. We need the dispute resolution provisions that it provides to better and more effectively conduct our missions. And I would ask you, when you have 161 nations plus the EU as a party to the Law of the Sea, what is customary international law anymore? I would argue that it is the Law of the Sea and we are on the outside looking in.

I just want to touch on two practical impacts of our failure to accede to the Law of the Sea, what they have -- the practical impacts on the Coast Guard. As some of you may know, two previous Chiefs of Maritime and International Law and two previous MLA reps are in key positions in the fight against narcotics in the United States. Rear Admiral Chuck Michel is the director of the Joint Interagency Task Force South in Key West, Florida. It's a joint DOD/Homeland Security multi-agency

command tasked with detection and monitoring of the flow of narcotics from South and Central America into the US. And Rear Admiral Bill Baumgartner is the Commander of the Seventh District in Miami, primarily responsible for the interdiction of narcotics in the Caribbean. We also have the Eleventh District responsible for the interdiction of narcotics in the Eastern Pacific. Joint Interagency Task Force South, Chuck Michel, District 7, Bill Baumgartner and the Eleventh seized more cocaine last year than all of state and local law enforcement in the United States and Customs and Border Patrol on the southwest border combined. It's a lot easier to keep drugs off our streets if they never make it to the United States. That's an impressive statistic and that mission, the success of that mission depends on the Coast Guard and the State Department's ability to negotiate bilateral agreements with South and Central American countries that allow us to very effectively and efficiently board suspected drug smuggling vessels, find the drugs, seize the vessels, get the suspects into the United States quickly for prosecution and dispose of the cases very quickly. We can't have our patrol assets sitting out there for days on end, which used to happen. I was a boarding officer as a young officer and one time I spent over four days waiting for diplomatic clearance to seize a vessel, whereas we can now turn these around in hours and get our patrol assets back out looking for other cases. Every time we negotiate one of these bilateral agreements, our failure to have acceded to the Law of the Sea comes up. It slows us down. It affects our negotiations. Becoming a party will enhance mission effectiveness in counter drugs.

I'm sure you all know what's going on in the Arctic. We're seeing more and more commercial activity. Shell has applied for permits to drill in the Arctic this summer. There can be a significant amount of activity if those permits are granted, plus tourism, ecotourism. The agency that is going to be on the spot for providing search and rescue services, pollution response services, waterway management services, law enforcement services is the United States Coast Guard. In a budget constrained environment and looking to the future, and looking at the possibility of decremental budgets over the next several years, the Coast Guard has significant difficult resource decisions to make. It would be nice to know exactly how much water we have to patrol up there. And we're not going to know that until we can perfect our extended Continental Shelf claim. It has potentially huge resource implications for the Coast Guard. It's awfully tough to go to the OMB and the Congress

and we say we need X when we don't know where we're going to be patrolling and what we're going to need to do. Accession to the Law of the Sea will allow us to perfect our extended Continental Shelf claim and allows us to more effectively and efficiently do our missions.

In closing, Doug said that the rumors on the street are that hearings could be happening very soon. I'm really gratified to see that the MLA will be submitting its views as well. And I will say as a disclaimer, I am well aware of the limitations under the Anti-Lobbying Act. This is just for information. I can confirm that much of what Doug has said is likely true. And if you personally want to use that information, now is a good time.

Thank you very much.

(Applause.)

MR. BONNER: I'm going to say what he couldn't, write your senator, write your congressman. Next will be Marine Ecology, Dennis Minichello, followed by Marine Financing, Frank Nolan.

MR. MINICHELLO: President Bonner, officers, directors and fellow MLA members. The Marine Ecology and Maritime Criminal Law Committee held joint meetings with the Regulation of Vessel Operations, Safety, Security and Navigation Committee and the Government Counsel Committee on May 1st in Washington D.C., at the offices of Winston & Strawn and on May 3rd in New York at the offices of Holland & Knight and I want to thank both of those firms for their hospitality. I am going to be reporting on the Washington D.C., meeting; Larry Kiern, in for Jeff Moller, is going to be reporting on our New York meeting.

We had approximately 40 attendees at our Washington meeting and we heard from a variety of speakers. Richard Udell from the Department of Justice reported on significant prosecutions of maritime companies related mostly to environmental crimes. He emphasized that they have been prosecuting intentional acts of criminal activity and that they have been involved in cases where there have been multiple repeat offenders; that the penalties have included banishment of some of these repeat offenders and fines and some jail time for other folks that were involved.

We next heard from representatives of the United States Coast Guard. As has been the case during my tenure as chair of this committee, the Coast Guard has been very supportive of our work by actively participating and helping us organize our meetings. I want to thank Admiral Fred Kenney and Admiral Select Steve Poulin, as well as Lieutenant Brendan Sullivan for their support of our meetings.

Admiral Kenney reported on the status of the Law of the Sea Convention and you just heard about that and about the efforts that are being made by numerous interests, including government and private interests to seek ratification of that treaty.

Next Jennifer Mehaffey reported on the new ballast water regulations. Miss Mehaffey is the primary US Coast Guard representative on this issue. The new rule will become effective on June 23, 2012. The Coast Guard worked closely with the EPA to harmonize the rule with the Vessel General Permit regulations. There were over 3,000 comments received and considered by the Coast Guard before the issuance of the final rule.

The final rule has primarily four advantages. First, it will provide certainty for the industry; second, there will be an enforceable numerical standard that industry can follow and abide by; third, it aligns with the IMO standard; and fourth, it complements the Vessel General Permit regulations. You can find the general rule and the commentary on the web page of the Marine Ecology Committee on the MLA website.

We next heard from Dana Goward, who is the Director of Marine Transportation Systems for the United States Coast Guard, and for those of you who don't know what that is, that's the office that's responsible for, among other things, the aids to navigation and bridge operation systems in the United States. Mr. Goward primarily reported on the Coast Guard involvement with the development of wind farms in the coastal areas of the United States. It was a fascinating presentation, both because of the graphics that he presented and the information that he provided.

Our own Larry Kiern next reported on legislative developments, including the Harbor Maintenance Fund and the Gulf States Restoration Fund. Larry emphasized that the funding issues remain the number

one issue in Congress this year and that the 2013 budget includes approximately 20% reductions for the Navy and the Coast Guard, mostly for the construction of new vessels.

We next heard from Eric Weiss, who reported on the case of the *PMSA vs. Gulfstone* and the status of the petition for certiorari, soon to be decided by the Supreme Court. The Solicitor General is to weigh in with the government's official position on that petition by the end of this month. There have been numerous meetings with all of the interested parties concerning that appeal, so it will be very interesting to see where the Solicitor General comes in on this because there's not unanimity within the government about what position the government should take.

Finally, Mike Underhill, who is chair of the Government Counsel Committee, reported on the DEEPWATER HORIZON case. Mike was unable to be here today because he's involved in that case and had to be in New Orleans but he does send his regards. He reported on the timetable of the case, which was very aggressive by litigation standards. He noted that the case included 247 depositions, 67 expert depositions, over 90 million documents produced, and from the government's side there were 30 to 40 government attorneys plus outside contractors who were involved in the effort. The recently announced class settlement does not end all of the litigation and many of the aspects of the litigation are still going forward, including the government's criminal prosecutions.

We heard from Jeffrey H. Lewis, who is the Staff Director for the Senate Subcommittee on Oceans, Atmosphere, Fisheries and Coast Guard and John Rayfield, who is the Staff Director for the House Coast Guard and Maritime Transportation Subcommittee. They both reported on the state of the Coast Guard authorization legislation, specifically noting the legislation in both the House and the Senate with regard to the ballast water issue.

Mr. President, that summarizes our Tuesday meeting. I would like to close my remarks by noting that the Marine Ecology Committee put out its publication of Bilge and Barratry, Volume 3, Issue 1. You can find it, again, on our web page on the MLA website. I want to thank Betsy Bundy and the Young Lawyers Committee for their

participation in the preparation of some of the summaries that went into that publication.

Also, we have posted on our website this year the new ballast water rule, as well as the comments as I mentioned earlier. And we've also posted BIMCO's GUARDCON Vessel Security Contract, as well as related documents. This is a project that BIMCO put together relatively quickly having to do with security issues to address the piracy issue. It's a very interesting contract and commentary to read, and I commend it to you for your general information.

In conclusion, this is the end of my term as chair. It has been an honor and it has been fun to serve the MLA in this capacity. And in appreciation I want to thank Warren Marwedel and Pat Bonner for appointing me to chair the committee; Jeff Moller and Mike Underhill for our collaborative efforts with regard to our joint meeting; Alex Giles, the vice chair of the committee, and Catherine Newman the secretary of the committee who has provided me with valuable assistance during these four years; all the contributors to the newsletter, which are too numerous to mention but you can check the website and find out who they have been; and everyone else who has participated in our meetings, including all of the members who have come to our meetings during the past four years. I'm indebted to all of you for the success of the Marine Ecology and Maritime Criminal Law Committee. Thank you.

MR. BONNER: Thank you for a job well done.

(Applause.)

MR. BONNER: Marine Finance, Frank Nolan, followed by Marine Insurance.

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

The Marine Finance 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, that was 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 all is right in the universe and as it should be.

We then moved on to the Subcommittee on Yacht Financing 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 Documentation, U.S. Citizenship and Related Matters 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 glazing 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, or 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 Liberian maritime law and

the Liberian government and LISCOR (Liberian International Ship and Corporate Registry) are discussing this at some level and we are in the process of demonstrating to them what we 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. 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 some of our more unusual members, and this will all be coalesced 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 misdirected 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 of 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 and 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 as 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.

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 it 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.

Finally, we discussed a term called UCOTVA, which is not a new Slavic tennis player, but rather stands for the Uniform Certificate of Title For Vessels Act. And this is a project of the Uniform Law Committee Commission and the state commissioners, and there is big interface with the Coast Guard as title goes back and forth between state titles and federal documentation. There are also Homeland Security issues on the tracking of vessels.

I have a motion that we'd like to propose to the Association, and I'd like to say that this motion will be jointly made by myself on behalf of the Marine Financing Committee and Lars Forsberg on behalf of the Recreational Boating Committee, and it deals with UCOTVA. The Uniform Certificate Title For Vessels Act, UCOTVA, regulates the titling of boats and other vessels that are principally used on an adopting state's waters and that are of at least 16 feet in length, as well as all vessels propelled by an engine of at least ten horsepower. The purposes of UCOTVA, which has been in the works for quite some time, are to harmonize some gaps between the state laws from one state jurisdiction

to another and to facilitate the movement of title across from states to the federal government and in the reverse direction. The principal objectives are uniformity in state titling laws that the Coast Guard will approve. And the Coast Guard has been in the loop with us so that they understand and have been kind enough to informally from time to time express their concerns, and the working group of the Marine Financing Committee has conveyed those concerns.

It's intended, on the security side, to impede the theft of vessels by making information about the ownership of vessels available to both government officials and those interested in acquiring an interest in a vessel. It is also intended to work seamlessly with the Uniform Commercial Code, especially Articles 2 and 9. And to manage to the extent possible the complications that can arise from a vessel's transition in or out of federal documentation.

The proposal or the uniform proposed statute was adopted by the commissioners of the Law Uniformity Commission and has been endorsed by the American Bar Association in its spring meeting, and we at the Marine Financing Committee and Recreational Boating would propose that the following resolution be adopted:

RESOLVED, That the Maritime Law Association of the United States approves the Uniform Certificate of Title for Vessels Act, promulgated by the National Conference of Commissioners on Uniform State Law in 2011, as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein.

MR. BONNER: Is there a second?

MEMBERS: Aye.

MR. BONNER: Any discussion? All in favor say aye?

MEMBERS: Aye.

MR. BONNER: Any opposed? So moved.

MR. NOLAN: And lucky you, Mr. President, that concludes my report.

MR. BONNER: Thank you very much, Frank.

(Applause.)

MR. BONNER: Andy Wilson, to be followed by Marine Torts, Charlie DeLeo.

MR. WILSON: I'm Andy Wilson for our chair Joe Grasso. Our meeting was held Wednesday morning at the offices of Seward & Kissel. We thank the firm for providing those accommodations and Bruce Paulsen from that firm for making those arrangements. We had 50 attendees. We also had two stealth attendees by phone whom we didn't realize were there until the music started coming through.

The meeting began with a presentation of the committee's newsletter which is edited by Cleveland attorney Gene George and prepared by his legal assistant Brenda Marmol. The newsletter is available on the MLA website and hard copies were made available at the time of the meeting. I think there are also still a few outside.

Gene highlighted a number of contributions to the newsletter during the course of the meeting. These included an article by Miami attorney Michelle Otero Valdés related to the evolving body of law related to the doctrine of *uberrimae fidei*. And more particularly, the recent case of *State National Insurance Company vs. Anzhela Explorer*. In that matter, the court concluded that the failure to disclose material facts related to deficiencies in the subject vessel's bulkhead rendered the policy void ab initio.

Next, Gene also covered the additional contributions from Joe Grasso, our committee chairman, related to LHWCA caps benefits, and another contribution from Keith Heard related to P&I Clubs' forum selection clauses, and another contribution from Michael Marks Cohen related to the issue of the timing of a disclaimer of coverage. Gene pointed out that the latter decision is particularly noteworthy as it may well have a significant impact on disclaimers and reservations of rights under marine policies governed by New York law.

Next was an update on the committee's project associated with

the definition of marine insurance. There is a working group that's working on that project. Committee secretary Andy Kehagiaras reported that the project continues to progress under the auspices of the MLA Young Lawyers Committee and their final product is expected to be presented and delivered at the fall meeting coming up.

The highlight of the meeting was the presentation by German attorney Dieter Schwampe of the firm of Dabelstein & Passehl. Dieter presented a PowerPoint on the CMI efforts to encourage consideration of mandatory insurance provisions in international conventions and to give recommendations for additional legal guidelines for governments around the world in a number of areas. Dieter is a chairman of an international working group overseeing the project.

So far a questionnaire consisting of 53 questions has been sent to all national maritime law associations as of August, 2010. The questionnaire covers the areas of licensing, certification, statutory law, jurisdiction, applicable law, direct actions and state liability. Replies have been received from a number of countries, I believe 14 as of this date. The next step will be an evaluation of the answers to those questionnaires and followed by recommendations from the executive council overseeing the project, and then a presentation of results at the CMI conference in Beijing in October of 2012. In response to questions during the presentation, we'll post both Dieter's PowerPoint presentation and the questionnaire that was issued on the MLA website.

As an interesting aside, during the presentation, Dieter mentioned a peculiar state of affairs under German law. He said that the German parliament, apparently through an unusual series of events, inadvertently abolished much of the German statutory law related to marine insurance, so there isn't any. As a result, business relations are more or less governed only by contracts with few legal guidelines as to how these agreements should be interpreted, which is great news for the lawyers.

So thank you, that concludes my report.

MR. BONNER: Thank you very much, Andy. Marine Torts, Charlie DeLeo, followed by Offshore Industries, Brad Jackson.

MR. DeLEO: Thank you, Mr. President. Good morning members and guests. I'm here as vice chair of our committee for Lisa Reeves who cannot be here due to a family emergency.

I do not want to repeat too much of what Bob Peltz said, but I am pleased to report the Marine Torts and Casualties Committee did meet jointly on Wednesday, together with the Cruise Lines Committee at Seward & Kissel. The meeting was well attended with 80 members present and 14 by phone. As Bob indicated, there was a discussion on the COSTA CONCORDIA tragedy. Lisa Reeves spoke on the limitation issues, Bob Pelz spoke on ticket issues, Brian McEwing on industry and government responses, Attilio Costabel on Italian law, and Michelle Otero on the insurance ramifications.

Following the presentation, Paul Hofmann gave an update on the *Lozman* case that has been alluded to earlier. In fact, I was privileged to write the amicus brief for the Association in support of the granting of cert because of the split between the circuits.

Otherwise, I am also pleased to report, Mr. President, that I was in San Juan on Tuesday for the swearing in of Bill Graffam as president of the IIDM, the Inter-American Institute of Maritime Law, which was a very nice event in the capitol building and senate chambers in Puerto Rico. It was very well attended, and there was a very nice presentation by federal judge Fuste on the history of maritime jurisdiction in the United States and the Savings To Suitors clause.

That concludes my presentation.

MR. BONNER: Thank you very much. What you didn't mention was that that was your second amicus brief. Charlie has really done a lot for the Association. Thank you.

(Applause.)

MR. BONNER: Brad Jackson, followed by Practice and Procedure, Joshua Force.

MR. JACKSON: Mr. President, distinguished guests, officers, fellow Board members, and so many dear friends I see out here.

The Offshore Industries Committee met Wednesday afternoon at Carter, Ledyard & Milburn and we are very appreciative of their hospitality. We had 25 hardy members there to hear a very interesting program, I thought.

Michael McGlone of New Orleans reported on the number of permits for drilling which is significant to folks in our area of the world, and he found that his contact previously had retired and he has encountered great difficulty in getting actual information out of the authorities as to the number of permits. He did say shallow water permits numbered 127 and deep water 81, but the important figure is the number of drill sites and that information simply was not made available to Mr. McGlone.

We then had a presentation by Jan Kromhout of Rotterdam on the decommissioning of platforms and facilities in the North Sea, which is particularly relevant to those of us toiling in the Gulf of Mexico because there also are decommissioning requirements for rigs or platforms once they've ended their useful life. It was interesting to hear that decommissioning is very active in the North Sea, as the North Sea is getting empty of oil. And so they're starting to have to remove these platforms and he went into detail about the Dutch Continental Shelf and the Dutch Mining Act and what all was involved in trying to decommission one of these platforms. It was a particularly interesting presentation and we appreciated his attendance.

We then relied upon our stalwart professor Michael Sturley to talk to us about the *Valladolid* case, decided earlier this year. I don't know how many of you know, but Michael is in charge of a Supreme Court clinic at the University of Texas Law School and also heads up the John R. Brown Admiralty Moot Court Competition, and they select problems of interest for students to argue. And over the last two years, one aspect of each of the problem in each year has subsequently had cert graded by the United States Supreme Court. So it's a very interesting competition. And Michael has gotten involved in a number of these Supreme Court cases.

The *Valladolid* decision deals with the question of whether there is a situs-of-injury requirement for the Longshore and Harbor Workers Compensation Act to apply via the Outer Continental Shelf Lands Act. It had been thought for a number of years, well, that a worker had to be

injured on the Outer Continental Shelf for the LHWCA to apply via the Lands Act, and then this poor fellow met his demise landside although 99% of his work had been on an offshore platform. Ultimately, the Supreme Court decided, yes, his widow is entitled to LHWCA benefits. And Michael then went into a detailed analysis of what is the real test these days. And it turns out, as I understand it, that you look at Fifth Circuit law prior to the *Mills* decision and the Supreme Court reference ought to be *Perini* rather than *Chandris* .

And that concluded our program and we're very grateful for those who came to speak to us and very appreciative to have the opportunity to report to you on that. That concludes my report.

MR. BONNER: Thank you very much, Brad. Practice and Procedure, Joshua Force, followed by Lars Forsberg, Recreational Boating.

MR. FORCE: Thank you, Mr. President, officers, fellow directors, members and guests. The Practice and Procedure Committee met on Wednesday at the offices of Carter, Ledyard & Milburn. We would like to thank that firm for its hospitality and support. We had in excess of 25 members and guests attend our meeting.

We began by discussing the Federal Courts Jurisdiction and Venue Clarification Act of 2011. Lafcadio Darling of Seattle has prepared a summary of the Act which has been posted on the committee's website under the library for "Legislation." The Act went into effect on January 6, 2012, and its stated goal is to simplify certain jurisdictional issues and reduce wasted judicial and litigant time engaging in civil procedure disputes, which obviously is a laudable goal.

The changes fall into two categories, jurisdictional improvements which cover changes in removal procedure and supplemental jurisdiction, and venue and transfer improvement which alters some of the rules relating to venue citizenship and transfer of forum. The Act is not specific or unique to maritime matters, but obviously is very important for anyone who practices in federal court.

And as a result, I would like to mention some of the more significant aspects of this Act. The most notable changes in the Act are

to 28 USC §§1441 and 1446, which relate to various aspects of removal jurisdiction and include substantive changes to federal removal. The Act resolves a split in the circuits concerning how to apply the 30-day removal period in cases involving multiple defendants. Under the Act, each defendant has 30 days from when it was served to remove an action. The Act also codifies the “unanimity” rule by specifically requiring that all defendants must consent to removal.

Further, the Act addresses the amount-in-controversy requirement for removal on diversity grounds. The new §1446(c) states that, for removal purposes, “the sum demanded in good faith in the initial pleading shall be deemed to be the amount in controversy.” Where the state practice either does not permit demand for a specific sum or permits recovery of damages in excess of the amount demanded, the defendant must prove the amount in controversy by a preponderance of the evidence.

The Act retains the traditional one-year time limit on removal, but the Act allows a defendant to avoid this one-year bar if it can demonstrate that the plaintiff “has acted in bad faith in order to prevent a defendant from removing the action.” The Act goes on to provide that bad faith occurs when the “plaintiff deliberately fails to disclose the actual amounts in controversy to prevent removal.”

In addition, the Act restricts the scope of the court’s jurisdiction to hear unrelated state law claims. Under new §1441(c) lawsuits involving federal questions remain removable, but if the suit includes a claim not within the original or supplemental jurisdiction of the district court or is non-removable by statute, the district court is required to sever those claims and remand them back to state court.

As I mentioned there were also changes to the venue provisions in Title 28. The Act includes a new §1390, which generally defines venue, distinguishes venue from subject matter jurisdiction, but importantly provides that these venue rules do not apply to admiralty and maritime claims under 28 USC §1333. The Act resolves a split in the circuits by adopting the majority rule that a natural person’s residency for venue purposes is the person’s state of domicile, which is the same standard that is used for diversity.

And lastly, the amended §1404 also allows parties, by stipulation, to transfer an action to any district and division to which all parties have consented even if that venue would not otherwise have been proper.

We also discussed the current status of the Department of State's efforts to obtain ratification of the Choice of Court Convention, and importantly the proposal for implementation of that convention under US law. You have already heard a lot about that today from Hal Watson and from Alan Van Praag so I will not repeat it. The committee discussed those various aspects and obviously the difficulties from the practice standpoint of having parallel legislation, both at the federal and state levels under this doctrine of cooperative federalism.

The committee discussed a recent case from the Southern District of New York, *Shaheen Sports, Inc. v. Asia Insurance Company*. In this case, the court denied a request for a turnover order against the New York branch of a Pakistani bank to obtain assets of the judgment debtor that were supposedly held in the bank's Pakistani branches. In doing so, the court rejected an argument that the *Koehler* cases, which you have heard reported on previously before by different committees, have eliminated New York's separate entity rule, under which a court must have jurisdiction over the specific bank branch holding the assets to issue a turnover order, which here it lacked. I should mention that the court certified the order to the Second Circuit under §1292(b). I believe a separate appeal was also filed, so there may be more coming on this case in the future.

Lastly, we heard a presentation from Mr. Aage Krogh of Copenhagen on: "The Rules of Lien for Nordic Freight Forwarders: Under What Conditions Is the Right of Lien Valid, and How Is It Enforced in Practice?". He presented a very interesting PowerPoint presentation to us which will be posted on the committee's web page. We enjoyed his presentation and we really appreciate Mr. Krogh addressing us on Wednesday.

Mr. President, that concludes my report. In closing, I would like to thank you and your predecessor for the opportunity and privilege to have chaired the Practice and Procedure Committee. I would also like to thank the prior committee chairs and the committee's active members, and in particular Bob Zapf, Jim Bartlett and Phil Berns for all of their

guidance and support during my chairmanship and I would like to wish the next chair, Ed Powers, all the success.

MR. BONNER: Josh, on behalf of the MLA, thank you very much for your time. Don't go away, we're going to be using you a lot in the future. Lars Forsberg, followed by Jeffrey Moller.

MR. FORSBERG: Mr. President, directors, officers, fellow members and friends. Recreational Boating, we do give a damn, because it encompasses so many of the areas that we've been hearing about today. And we're very appreciative to have so many of the members here attending with so many different wonderful inputs.

Yesterday we had a series of reports at our meeting at the New York Yacht Club, including insurance reports from representatives from Marsh on trends and statistics of marine insurance and why marine underwriters deny so many claims. This was followed by a National Marine Banker's Association report provided by Alan Swimmer of National Marine Services on new and used boat sales. And then we had a market update on the larger yachts, which range up to the size now of small cruise ships. And, no surprise, the mega yacht business is a little bit slow right now. We had a wonderful presentation by the president of the American Boat and Yacht Council. This is a group that provides construction and design standards for vessels primarily under 24 meters, and after that the classification societies usually get engaged. We also had a UCOTAV (the Uniform Certificate of Title Act for Vessels) presentation by David Bohannon and Mark Buhler and you have heard about our resolution and we thank Frank for including us in that resolution today.

Our Pulitzer Prize award winning newsletter, Boating Briefs, is available if you'd like a copy of it or it will also be on the website. Daniel Wooster, who puts that together for us, has done an outstanding job, and as usual we have another great publication that's just been put out.

In the way of ecological matters, the EPA is getting involved more and more in the VOCC or VOC emissions that affects marinas with their bottom paint and their blasting, water blasting of bottoms and the runoff from that, and the EPA seems to be getting more and more engaged in that.

Finally, we had a little discussion about the American's Cup coming up in San Francisco and the unfortunate recent fatalities in a couple of west coast sailing events.

Mr. President, that concludes our report. Thank you.

MR. BONNER: Thank you very much, Lars. Jeffrey Moller, Regulation, followed by William Storz, Salvage.

MR. KIERN: Thank you Mr. President, officers, directors, members of the Association. It's a pleasure to report to you this morning. I'm standing in for our chairman Jeff Moller, who could not be here this morning. And my report for our joint committee meetings will supplement and complement the report that you heard earlier this morning from Dennis Minichello, who reported principally on our activities at the Washington meeting.

The joint committee meeting of the Committee on Marine Ecology and Committee on Regulation of Vessel Operations, Safety, Security and Navigation was held on Thursday, May 3rd, at Holland & Knight in midtown and we express our appreciation to that firm for its hospitality. The meeting was well attended by, I would estimate, about 50 members. It was co-chaired by Dennis Minichello and Jeff Moller.

We were pleased to have presented to us Rear Admiral Select Steve Poulin, who spoke principally on the Law of the Sea Convention and the accession of that convention, as well as the recent Coast Guard rulemaking with respect to ballast water, the details of which have been outlined for you earlier today in previous presentations. There were many questions for Rear Admiral Select Poulin and we were grateful for his presentation.

I gave a brief Washington D.C. legislative update in which I highlighted in particular the gridlock which grips Washington and the fighting that's going on principally over funding issues and appropriations issues as our policymakers in Washington begin to come to grips with a constrained budgetary environment. I explained that I expected most big things to have to wait to be resolved until after the election, which means that we're likely to have a very animated lame duck session.

I also highlighted two pieces of legislation of interest to the maritime industry, the modified Realize America' Maritime Promise or "RAMP" Act, which is designed to actually use the taxes that have been collected to maintain our nation's harbors out of the Harbor Maintenance Trust Fund rather than having it held back to reduce the deficit, and the legislation which represents remarkable promise to the Gulf Coast of the United States, which is the Resources and Ecosystems Sustainability, Tourism Opportunities and Revived Economy of the Gulf Coast or "Restore" Act which proposes to use 80% of the fines and penalties collected in the DEEPWATER HORIZON incident for the restoration of the Gulf Coast. If this legislation does become law, it could represent a remarkable infusion of resources, not only to the Gulf Coast but also the maritime industry along the Gulf Coast, which will certainly be directly involved in the work that will have to be done.

The committee was also featured presentations by Rebecca Fenneman, who is the Chief Counsel of the Federal Maritime Commission in Washington D.C. She explained what the Federal Maritime Commission does, gave us an overview of its current activities, particularly highlighting the Federal Maritime Commission's ongoing analysis of shifting cargo trade patterns on the west coast, particularly cargo which was once destined for west coast ports, now finding its way into the United States through Canada and Mexico and the potential implications for the US economy of that shift. She also gave an overview of other agency activities, including the agency's proposed rulemaking with respect to certificates of financial responsibility regarding passenger vessels including cruise ships.

We were also pleased to have an interesting PowerPoint presentation by Dr. Jan Dreyer of Hamburg with respect to the GUARDCON contract. His presentation provided a very instructive overview of the origins and the purposes and the details of that contract. If you have clients who are in any way involved in hiring security guards, I'd certainly recommend his presentation to you.

We were also lucky to have Cynthia Hudson, the Chief Operating Officer of Hudson Analytics, who provided an insightful program with respect to contentions that she has observed between government investigations and corporate internal investigations and the challenges that it presents not only to responding to the government's investigations,

but also maintaining ongoing corporate operations in the midst of a government investigation.

Finally, we were particularly pleased to have Helen Noble, the President of the Irish Maritime Law Association, who provided an insightful overview of the governmental structure with respect to the regulation of Irish maritime activities. And it was quite remarkable in my mind as I listened to her how similar the organization, the structure and the activities of the Irish maritime agencies are to our own Coast Guard. And it also is quite remarkable, it seems to me as I sat here today, to listen to how many presentations she has made to our committee meetings this week. It's pretty clear to me that if anyone has a question on Irish maritime law, she's the go-to person.

That's my report. Thank you.

MR. BONNER: Thank you very much, Larry.

(Applause.)

MR. BONNER: Bill Storz, followed by Tony Filiato, Stevedores.

MR. STORZ: Thank you, Mr. President.

Good morning, everyone. The Salvage Commitment met on Thursday morning in the offices of Reed Smith uptown, courtesy of Lars Forsberg. We had 33 members in attendance, including four lawyers from other countries.

The major topic of discussion was the Salvage Convention of 1989. The real issue is environmental salvage. Is there a need for that? Is there a need to change the provisions in the Salvage Convention to make awards for environmental salvage possible?

I think it is widely agreed that there are some problems with the Convention. Article 13 deals with traditional salvage awards when the salvor has been successful in saving either a ship or its cargo. And, in fact, Article 13 does make an allowance that the salvage efforts in mitigating damage or preventing damage to the environment will be taken into consideration and could increase the percentage of the salvaged

values that he might be awarded. The problem is that there are cases when we have a casualty that doesn't result in saving the ship or cargo, so under traditional salvage law there would be no compensation to the salvor.

Article 14 in the Salvage Convention does make an allowance for such cases, but the frame of reference is the salvor's costs and not the potential millions or hundreds of millions of dollars in liability that the salvor might have saved the shipowner by taking action that has mitigated damage to the environment. Article 14 does allow an award, but it's based on costs and problematically there is no clarity that the salvor will be allowed a percentage of profit in addition to costs. In fact, there's a decision, the *NAGASAKI SPIRIT* in the UK, that specifically addressed that point and found that there wouldn't be an allowance for profit.

The P&I Clubs and the salvors have adopted a workaround. It's done contractually and it's called the Special Compensation P&I Clause ("SCOPIC"), and this clause may be expressly incorporated in a salvage contract at the election of the salvor. And you see them particularly in the Lloyd's Open Form Salvage Contract. Nonetheless, salvors in the salvage industry have contended that they are not being adequately rewarded and that there are fairness issues when they save great sums of money for insurers and shipowners by helping them avoid liability costs for damage to the environment and the salvors receive comparatively small awards.

The International Salvage Union has asked the Comité Maritime International (CMI) to take a look at these issues, and at the Salvage Convention in general to see if it needed any updates.

We were very fortunate to have Christopher Davis come and speak before the committee. He's actually a member of the CMI working group on the Salvage Convention and he gave us quite a bit of very helpful information. There are a number of issues that go beyond environmental salvage and the award that the salvor would get. One of the questions is which insurer will pay? Article 13 awards, when you have successfully salvaged a ship and cargo, would be paid by the hull underwriters; Article 14 special compensation rewards would be paid

by the P&I Clubs. The problem from the hull underwriter's perspective is that since you allowed the Article 13 award to be increased, because there has been some mitigation of damage to the environment, the hull underwriter is basically paying something that is a liability avoidance interest rather than a cargo or a ship value interest.

The other question under the Convention is that by definition, compensable damage to the environment is quantitatively and geographically limited to substantial physical damage to human health or to marine life or resources in coastal or inland waters or areas adjacent thereto. What should be done when we have a tanker or a casualty on the high seas, which nonetheless could conceivably affect fish stocks and marine resources in general?

What's interesting about the CMI working group is that we don't have a clear consensus from the member legal associations on many of these issues. It seems like they are evenly divided on many issues. The working group apparently issued a report this week, Chris is going to provide it to me, and I will upload it to the website.

The other people that spoke at our meeting also had strong opinions. We had Jim Shirley in favor of environmental salvage. Jim is a salvor himself. He's a master mariner, a salvage master, and has a lot of experience in the salvage industry. Jim made it clear that from the salvor's perspective it really is a question of fairness. Salvors have saved the shipowner money in potential liability costs by preventing damage to the environment, why aren't they being adequately compensated? And Jim's other main point was that you have a lot of talented lawyers, maritime lawyers in this room who are going to be able to sufficiently prove the damages that have been avoided.

Charles Anderson, who also spoke to the committee, gave us the International Group of P&I Clubs' outlook. They're not in favor of environmental salvage. Their position is that SCOPIC works, that it would be too speculative and time consuming to prove environmental damages that have never occurred, you've avoided or mitigated them.

This became a topic of a six month-long dialog in the Salvage Committee and resulted in a vote by the members. Jim had drafted a

resolution. Basically what was under consideration was whether we should introduce a resolution for vote here today on having the MLA advocate to the CMI in favor of environmental salvage. And the outcome was that we had a relatively small number of potential voters participate. And, that small vote was evenly divided. I don't think this reflects disinterest because we have a lot of people on the committee who are heavily involved in either defending shipowners or representing salvors. Rather, I think that we simply have a lack of consensus on the right approach at this point in time.

The other thing I personally think is that the salvage industry in this day and age must make a business case for environmental salvage. You can't talk about mere generalities and fairness. You've got (especially when you're talking about changing a convention) to make a case to governments that there's a public benefit. Traditionally in salvage situations, we gave awards to people because there was a public benefit in rescuing property in distress at sea. The salvage industry needs to make the case that by allowing something like environmental salvage, you will increase the number of vessels worldwide that are dedicated to salvage and this will generally mean that there will be quicker and more effective responses to casualties at sea.

At the meeting we also had Jason Harris, our vice chair, discuss the contents of the written salvage case law update that he regularly produces. It is drafted by him and the Young Lawyers Committee. We also uploaded this update to the website.

Thank you very much..

MR. BONNER: Thank you very much, Bill. Stevedores, Tony Filiato, to be followed by Young Lawyers.

MR. FILIATO: Good morning, Mr. President, fellow members. I'd just like to start off by saying we will be changing our name to the AAA Stevedore Committee.

Yesterday we met at the offices of Mendes & Mount. We had 35 members and guests in attendance and several more by telephone. We began the meeting by having Tom Langan of Weeks Marine give an update of recent longshore and maritime law highlighted by the two

Supreme Court cases that touch upon the Longshore Act. Tom has a written paper that will be put up on our website that's 80 pages long, so I highly recommend that you take a look at it. It's very detailed and very well done.

In one of the two Supreme Court cases called *Roberts*, the Supreme Court confirmed that the average weekly wage ordered to an injured longshoreman would be that at the time of his injury rather than at the time when he actually receives the award. What was significant about this case is that this is one of the rare cases where the Department of Labor submitted briefs in favor of the employer on the subject.

The second Supreme Court case was mentioned earlier, the *Valladolid* case. We were fortunate enough to have Mick Thomas speak to us. Mick handled the case at the trial level for the employers so we had some insight on the appellate process and also the challenges he faces now that he is going to have to try the case before the administrative law judges on the merits. Mr. Valladolid, we learned, was actually killed when he was operating a forklift and was standing on the forklift trying to harvest plantains from some trees that were on this employer's property, so that should be an interesting fact pattern to try to apply this new "substantial nexus" case law to.

Nash Bilisoly provided us with a report on the end of concurrent jurisdiction in Virginia. Virginia had been one of the states where an injured longshoreman was able to file both a state act claim under the state compensation system and a Longshore Act claim. Nash detailed the 15-year effort to end concurrency in Virginia. And on July 1st all claims, injuries occurring on or after July 1st on the waterfront in Virginia will solely be within the jurisdiction of the Longshore Act.

JoAnne Zawitoski led a discussion on the trend of public/private partnerships and management running of marine terminals and the issues that arise from them. It was very interesting. Dave Loh gave his usual detailed report on current case law and his report will also be up on our websites.

And that's the end of my report.

MR. BONNER: Thank you very much, Tony. Norm Stockman, to be followed by ABA Jim Bartlett.

MR. STOCKMAN: Mr. President, officers, directors, fellow members and distinguished guests, I am here today on behalf of Betsy Bundy, our chair. Her absence, I promise you, has nothing to do with our social event last night.

MR. BONNER: Betsy is back in the office billing hours. Someone has to be doing that or we can't pay the rent.

(Laughter).

MR. STOCKMAN: We had in attendance in excess of 30 people yesterday at the offices of Holland & Knight. I would like to thank Holland & Knight, Chris Nolan and Vince Foley for their gracious hospitality.

Our feature presentation was a panel discussion by Chris Nolan, Pam Palmer and Sean O'Neil. The overall theme of the presentation was marketing and practice development strategies for young lawyers. Each of our panel members led a discussion on a particular topic relative to the theme with Mr. Nolan addressing relationships with existing firm clients; Ms. Palmer covering business development opportunities in the MLA, other organizations and online tools; and Mr. O'Neil discussing starting a maritime solo practice. It was a lively discussion, very insightful and full of helpful information for young lawyers about developing and maintaining a successful business and legal practice. And I really can't say enough to thank the panel presenters who put in a lot of effort and a lot of time in their presentation.

In addition to our panel presentation, we were quite fortunate to have First Vice-President Bob Parrish in attendance. Mr. Parrish provided our committee with a great deal of information concerning the work of the MLA, his vision for the MLA's future and our opportunities as members of the Young Lawyers Committee to become involved in the MLA's work.

We also went over several projects of the Young Lawyers Committee, including the marine insurance project about which you

heard earlier, the MLA resolutions project, as well as some new projects that are in the pipeline and with which we hope to become involved to help other committees.

We also heard presentations and reports from our committee liaisons. This is a program instituted by Alex Giles our past chair and Betsy Bundy our current chair. The presentations were very interesting and I think this program is becoming very successful.

As is our tradition, we reconvened our meeting last night in the East Village at a place called the Ugly Kitchen. In what is becoming a new and very welcomed tradition, our cocktail hour was sponsored by SEA Limited. I want to particularly thank Anthony Barker and SEA Limited for that sponsorship. Also, we continue to set records for our attendance. I think we had around 70 people for cocktails and in excess of 50 for dinner. Following dinner we continued the evening with an after-party at the Ninth Ward where we practiced all of the business development pointers received earlier in the day, but to decidedly mixed results.

In all seriousness, a great time was had by all. The camaraderie of our committee is a key component of the Young Lawyers Committee and something that we strive to encourage. We all owe a tremendous thank you to Pamela Schultz of the Severson & Werson firm from San Francisco who, despite being on the other side of the country, each year seems to outdo herself in making arrangements for our social event.

So on behalf of the Young Lawyers Committee, that concludes my report.

MR. BONNER: Thank you very much, Norm.

(Applause.)

MR. BONNER: Jim Bartlett, to be followed by Dan McDermott, Uniformity.

MR. BARTLETT: I feel a little like Rodney Dangerfield. I'm on the ABA Committee and I'm still at the end of the program.

In any case, it was my pleasure to represent the Association at the February 5th meeting of the ABA House of Delegates in New Orleans. The House of Delegates passed what it denominated as Resolution 102(A), which was, in essence, identical to the resolution that Frank Nolan presented to the MLA, so I won't go through it again.

Yesterday the ABA Committee met at Holland & Knight and we met in conjunction with members of the Admiralty and Maritime Law Committee of the TIPS Section of the ABA, which is the only standing admiralty committee in the ABA, with its chair Chris Nolan and several of its members. We discussed ways that the ABA Committee, their committee, and the MLA can coordinate and cooperate with respect to participation and promoting each other's activities. One idea that we're going to pursue is to perhaps put on a program at the November MLA meeting dealing with P&I Clubs. We'll work, of course, with Mike Ryan about that – to see if something along that line might be possible.

I will be attending on your behalf the House of Delegates meeting at the ABA Annual Meeting in Chicago in the first week of August.

And Mr. President, that concludes my report.

MR. BONNER: Thank you very much, Jim. Uniformity, to be followed by In-House, Skip Volkle.

MR. McDERMOTT: Thank you, Mr. President, distinguished Board members, officers and members of the Association. May I be the first one to say good afternoon to everybody.

We are running late so I will be brief. Uniformity met on Wednesday. We had an overflow crowd. We had 28 in attendance, including three foreign attorneys. We had a hookup with about four or five that attended by telephone.

We had an aggressive agenda but it was limited to the feature presentation that was given by Michael Chalos of Chalos O'Connor in New York on the consequences resulting from the grounding of the COSTA CONCORDIA. It was a comparative study between the laws in Italy and the laws in the United States if a similar event happened here.

Michael gave us some background about the case he had with Captain Hazlewood with respect to the EXXON VALDEZ and criminal charges against which he successfully defended Captain Hazlewood.

He presented a factual summary of the particulars of the vessel, the details of the incident, the damage to the vessel and the reports that were first given and noticed to the Coast Guard. And in this day and age, the first notice to the Coast Guard was given by cell phones of the passengers. The crew didn't give notice to the Italian Coast Guard until about 45 minutes afterwards and they did not give the full details of what had happened. They merely reported that there was a blackout.

There are several criminal charges that are being brought against the captain, Captain Schettino, including allegations of misconduct causing a ship wreck, abandoning the ship and manslaughter on multiple counts. The most serious of these under Italian law is abandoning the ship. If he gets the maximum on leaving 300 passengers and crew on the ship, he'll serve about 1700 years, but right now he's under house arrest, and given some of the activities he had going on prior to the incident, I think he's having more problems with his wife than serving the 1700 years. That's my commentary, not Michael's.

There was further discussion, and I don't want to keep anybody here too much longer because the paperwork is on the website, with respect to what would have happened if the event took place in the United States and what the charges would be against not only the captain, but against the corporation, the owner and the charterer. There's the Seaman Manslaughter Statute, 18 U.S.C. § 1115. There's the False Statement Act, and he would probably be charged under that because an accurate description of what happened and the events that took place were not given to the authorities. Also, obstruction of justice, possible tampering of witnesses, and there's various vicarious liability of the owner and operator. There's also respondeat superior issues that would be brought up.

As to the civil side of it, under Italian law the passengers are subject to the Athens Convention. In the United States, we're not signatory to that convention, but owners would have a right to institute a limitation of liability proceeding, which in this case may not be successful. Suits

have already started in the United States. They're going to be subject to motions to dismiss on jurisdictional grounds, possibly forum non conveniens at the very least, and pursuant to the forum selection clause in the tickets for the passengers.

As I said, we did offer one CLE credit for the attendees, which we've done over the last several years at the Uniformity meeting. We had other agenda, JoAnne Zawitoski, my vice chair, was going to give a presentation but time did not allow for that.

This is my last day of service as chair of the Uniformity Committee. I've enjoyed it very much. I'd like to thank Past President Warren Marwedel and President Bonner. I'd also like to thank my immediate predecessors as chair Kim Kearney and Pat Cooney, and also my present staff. Mr. President, that concludes my report.

MR. BONNER: And thank you very much for your service.

(Applause.)

MR. BONNER: Skip Volkle, followed by Tom Muzyka and Rob Fisher.

MR. VOLKLE: Thank you, Mr. President, officers, members of the Board. I'm mortified to be one of the last committees standing between the MLA and lunch, but even though I live in Seattle, I grew up in New York, so I'm going to call on my background and talk very fast.

The In-House Committee met Thursday afternoon at Holland & Knight thanks to Vince Foley. I thank Holland & Knight for their accommodations for us. We're a growing committee I'm pleased to say. We had 16 people in person and six on the phone. We would have had more but there were a lot of conflicts and I'd like to work with the Board just to try and work on minimizing the conflicts between our committee, which is kind of spread out all over the place.

We had a presentation by Bruce Hennis of Hennis Paynter Communications in Cleveland on crisis communication, an issue that is near and dear to the hearts of many of us in-house. He explained how to take control of the story, manage the media and respond to the media in

a crisis situation. His three guide posts are, tell the truth, tell it all and tell it first. And he talked about how reporters get into a story framework and fit into various categories of the story, and one of the problems that we often find ourselves in, we get locked into what he called a three “V” story framework, which is a villain, victim and vindicator, and whatever you do, you don’t want to be the villain in that story. And if you are, he recommended you do what he called the three f’s, “f” up, ’fess up and fix up. That will allow you to go from being the villain to being the vindicator.

He pointed out a couple of websites that were really useful, one was www.sorryworks.net, which is actually put out by the medical community that points out that just saying you’re sorry, not necessarily indicating liability, but saying you’re sorry helps a long way to calming people down and making the adverse consequences that much less.

He also talked about the BP disaster a little bit and pointed out that we don’t, particularly with the In-House Committee and the marine business, I think, focus enough on social media. And one of the problems that BP had was somebody hijacked the BP name in their Twitter account and was sending out a bunch of Twitters under the BP name and it was a couple of weeks before anybody realized that it really wasn’t coming from BP. And he pointed out that there’s a website www.namecheck.com, where you can go and check to see if your name, whether it’s your personal name, the firm name, your company name, is available, and if it is, you want to make sure that you get your own Twitter name and Facebook name and all the rest so you don’t wind up having it hijacked. His point was to make sure you have a crisis communication plan, that it’s tested and that there are trained spokespeople in the company that are ready to put the plan in action.

Following that we had a very lively question and answer session and then did a quick regulatory and legislative update. We talked about the unprecedented attacks on the other Jones Act, the cabotage Jones Act. For those of us in the US flag fleet, it’s been a matter of significant concern. Unfortunately, there was an attempt by American Feeder Lines to get foreign flag vessels into the Jones Act for short sea. That attempt has been abandoned but we continue to fight the fight against the Jones Act.

The vessel discharge issue has been mentioned a couple of times. There was a part in the Coast Guard Authorization Act, H.R. 2840, which provided a uniform national discharge system preempting state law for vessel discharges, which was strongly backed by industry. There will be a counterpart Senate bill introduced by Senator Mark Begich from Alaska shortly.

We talked a little bit about towing vessel inspection regs. After eight years they are still not issued but they are back in the Coast Guard with significant comments. We talked about the Law of the Sea treaty and the fact that the Coast Guard rejected a request for rulemaking to clarify the rules for foreign shipyard repairs.

With that, I conclude my report.

MR. BONNER: Thank you very much, Skip.

(Applause.)

MR. MUZYKA: I'm here to give you a heads-up on what you can expect in a couple -- in a week or so. President Bonner has put together a committee of the Board to look into the membership and to kind of enhance it and expand it if we can. That committee has prepared a survey, which will be coming out by e-mail to each member and I guarantee you it's a short survey. It's only on the areas that we feel would be helpful for us to make a report and make recommendations to the President, so that will be coming by e-mail to you. If you could take some time, a few moments to just respond and reply to it we would appreciate it. And then we have another Board meeting in August and we'd like to be able to incorporate that information into that meeting. Thank you.

MR. BONNER: Thank you, Tom. Rob Fisher, to be followed by Chet Hooper.

MR. FISHER: Good afternoon, Mr. President, all the members and guests. On behalf of the Tulane Admiralty Law Institute, the biannual meeting will be held next March in New Orleans, March 13th through 15, 2013, and I wanted to just tell you a few things very quickly about it.

Our theme for the Institute is “Modern Marine Insurance: Coverages, Current Issues and Connections”. And I want to encourage all of you to come. When you go back home, please tell your colleagues. This little flyer is out on the table outside the door, when you leave, please take one. If you have any questions or want to know more, contact Tulane Admiralty Law School’s website for details, as well as to register. Also, feel free to contact me or any of the other members of the Program and Planning Committee. Thank you.

MR. BONNER: Thank you, Rob. Chet Hooper.

MR. HOOPER: A couple brief reports. One, on behalf of the AMC, I would like to inform you that the first volume of this year’s AMC has a picture of our president, Pat, on the inside and I’m sure all of you have brought your AMC’s so you can have Pat autograph them. You can line up after the meeting for that event.

The other thing, on the MLA report, David Nourse and I ask that you send any newsletters you’d like placed in the report to us both in Word format and we’ll put them in. We also wish to apologize to our assistant editors who are leaving. Unfortunately, they did not edit the last draft and the last draft left the thank you to them out of it and they should have been in and will be in the next one. It’s Pat Ward of Hand Arendall, Art Severance of Sand Lerner and Corey Greenwald of Nourse & Bowles. Thank you.

MR. BONNER: Thank you, Chet.

(Applause.)

MR. BONNER: We have a spectacular dinner/dance planned for November 9th in New York at Cipriani’s and I’m going to ask Bob Parrish to talk about it briefly.

MR. PARRISH: Very briefly, one of the hardest tasks serving in leadership is deciding how to accommodate the various interests of the Association. History is, we have not done a black tie dinner/dance for ten years. But there’s a sizeable group, including a lot of ladies, who want to have a dinner/dance and that is and that’s what we’re going to do.

We'll let Bob Clyne tell you. It's a spectacular venue and you're going to be really excited about it, I think. And I've actually talked to some of the anti-tuxedo folks and they promised me they will be there.

MR. CLYNE: As you know, the Board has voted to hold the fall meeting in New York in November. It will be the week of November 5th. It's been ten years since we've been in New York for a fall meeting. We are going to be holding a dinner/dance at Cipriani Wall Street, which is at 55 Wall Street. As Bob said, this will be a really spectacular event. We've checked it out, there's transportation, taxis, and plenty of hotel space available. Again, it's going to be Friday evening, November 9th. Please bring your spouses and support the dinner/dance. For those of our members that have an aversion to loud bands, Cipriani's has a state-of-the-art sound and light system so we can deal with that problem very efficiently, so please join us for the fall MLA dinner/dance on November 9th. Thank you.

MR. BONNER: Borianana has again done a spectacular job with the dinner tonight and if you could just tell us a little bit about it, Borianana.

MS. FARRAR: Mr. President, officers, directors, fellow members, the cocktail reception will start tonight at 6:00, and the dinner itself will start at 7:00. This year we have 911 people, which is a record since I've been dinner chair. We're all very excited to have you. There will be busses starting to leave there at 9:00 that will be going to Grand Central and the Port Authority and they will be leaving until past 11:00.

After the dinner is completed, the bar will be open for an additional half an hour for free and then an additional half an hour cash bar, so stay a little longer, talk to your fellow members and guests and have a good time. I hope I'll see you tonight, we'll have a good dinner. Thank you.

MR. BONNER: Thank you very much. I would like to recognize the outgoing Board members and present them with certificates, so Brad Jackson, Josh Force, Jim Mosley, Jr. and Skip Volkle, would you please come forward. Thank you for three very, very good years on the Board. You certainly spoke your minds.

(Applause.)

MR. BONNER: And now I believe if there's no other new business or old business, we have a report from the Nominating Committee, Warren Marwedel.

MR. MARWEDEL: On Wednesday afternoon, the Nominating Committee met at the offices of Curtis Mallet, and by unanimous vote proposes the following slate for directors: Katherine Newman of Houston; Joseph Walsh, Long Beach; Michael Bell, Houston; and Charles Anderson, New York. Pat Bonner, of course, moves to Immediate Past President and I am a past Past President now and I won't go through the initials for that.

The nominees for officers are Barbara Holland for Membership Secretary; Treasurer, Bob Connor; Secretary, David Farrell; Second Vice-President, Harold Watson; First Vice-President, Bob Clyne; and for President, Bob Parrish.

MR. BONNER: Do I hear a motion?

MEMBERS: I make a motion. Second.

MR. BONNER: The senior Past President traditionally makes the motion and I call upon Chet to come forward.

MR. HOOPER: Mr. President, I move that the nominations be closed and the Secretary be directed to cast one unanimous ballot for the slate.

MR. BONNER: Is there a second?

MEMBERS: Second.

MR. BONNER: All in favor?

MEMBERS: Aye.

MR. BONNER: So moved.

I want to thank you. I thoroughly enjoyed the past two years. It's been a lot of fun and I hate to see it go, but you're going to be in good hands. Going out I want to again thank my partners for letting me spend all the time on the MLA. Thank my wife for sitting through a lot more dinners, lunches, whatever, where the main subject was the Rotterdam Rules or some other mundane subject. And Bob Parrish is willing, able and ready. Bob is willing to go, and I'm going to be just like my idol, Pelorus Jack; I'm going to do what he did 100 years ago, I'm going to sink to the bottom, never to be heard of again.

Thank you all.

(Applause.)

MR. PARRISH: I've got a little left here. We're going to have some fun with Pat and then I'm going to make some very brief remarks and we'll get out of here.

The first thing, Pat, is the traditional certificate from the Maritime Law Association of the United States, in testimony of appreciation for your service I have signed it, and the secretary, Mr. Farrell, just signed it. We will, of course, get this framed and return it to you. Thank you very much.

(Applause.)

MR. PARRISH: Admiral Kenney, I would like to recognize you at this time, please, sir.

ADMIRAL KENNEY: Mr. President, thank you. It's really my honor to recognize Pat Bonner for his outstanding contributions to the Coast Guard/MLA partnership through his tenure as President over the last two years. I was thinking about my remarks this morning and thinking about the enduring relationship that Pat Bonner and Steve Poulin have developed over the past two years, watching them work together. And I started thinking about the similar relationships that have developed in the past, for example, with Bill Baumgartner and Tom Rue, Liz Burrell and Chuck Michel, and myself. And it is so vital to keeping the lines of communication open between the maritime bar and the Coast Guard and how that continues to grow and grow. And on the Coast Guard side, the

last four of those mentioned made admiral. I don't know if the MLA's presence has anything to do with it, but it seems to be working out pretty well. And Bob, I know you've met Melissa so you've got your work cut out for you.

And with that, Pat, if I could, I'd like to read the following citation:

The Commandant of the United States Coast Guard takes great pleasure in presenting the Coast Guard Meritorious Public Service Award to Mr. Patrick J. Bonner in recognition of his outstanding contributions to the United States Coast Guard as President of The Maritime Law Association of the United States (MLA) from 2010 to 2012. In his role as President, Mr. Bonner advanced the uniformity of maritime law and thereby reinforced the Coast Guard's influence in protecting maritime interests. Through his facilitation of discussions on critical issues including the admissibility of casualty reports and fair treatment of seafarers, the Coast Guard forged unique partnerships with maritime industry executives that strengthened the bond between the Coast Guard and the maritime legal and regulated communities. Mr. Bonner encouraged active participation by Coast Guard attorneys in Maritime Law Association events, facilitating vital communications links between key industry stakeholders and federal government representatives for such matters as marine safety, maritime security, vessel regulation, navigation, law enforcement, and maritime legislation. His efforts had a tremendous impact on enhancing public participation in governmental processes and furnished a productive forum for the discussion and consideration of problems affecting the maritime law and its administration. During his tenure as President, Mr. Bonner established new MLA membership and mentorship opportunities for young government lawyers. He served as an invaluable advisor to the United States delegation to the International Maritime Organization's (IMO) Legal Committee and the Joint IMO/International Labor Organization Working Group. His efforts were essential to achieving the Coast Guard's and the MLA's goal of bringing greater harmony in the shipping laws, regulations, and practices of different nations. Mr. Bonner's astute advice and knowledge of maritime and international law were critical in addressing emerging issues of concern to the global community, including developments in deepwater drilling and the limitation of liability. Mr. Bonner's guidance provided direction that will establish the foundation for future regulation

in the developing offshore industry. He was a key participant in providing counsel to Congress as the United States government considered the steps necessary to avoid catastrophes like DEEPWATER HORIZON. Mr. Bonner advocated for uniformity of maritime laws by spearheading renewed efforts to support United States adoption of the Limitation of Liability Convention. His efforts highlight important ideas for the U.S. government to consider in protecting Americans on the sea, protecting America from threats delivered from the sea, and protecting the sea itself. Through the Maritime Law Association's Coast Guard Forum, he drove the consolidation of government and maritime industry positions of law, providing clear guidance for legal reform. Under Mr. Bonner's leadership, the United States developed critical cruise line industry regulation, ensuring the safety of passengers through security reform, training standards, and vessel design requirements. Mr. Bonner's positive outlook, camaraderie, and tireless efforts were essential to bringing together a multitude of parties across the maritime spectrum to resolve critical issues and to act in common cause, greatly assisting Coast Guard efforts to the same ends. Mr. Bonner's exceptional professionalism and sense of public service are most heartily commended and are in keeping with the highest traditions of the United States Coast Guard.

(Applause).

MR. PARRISH: We also have a little token here. As many of you may know, Pat served our country valiantly during the Vietnam War. He served on a ship called the PONCHATOUA, which was an oiler off the coast of Vietnam and we thought it appropriate if he could have a memento which features that ship and I'm going to read it to you. There's a couple little details about it I'd like to share with you and I hope you'll have a chance to come look at it a little closer.

This shadowbox says, "Patrick J. Bonner, a life of maritime service." There happens to be a picture of Pat I think you want to pay particular attention to. It shows a little Irish lad, who looks a lot like him except the gray hair is gone, on the deck of the PONCHATOUA. From serving as a deck officer on the USS PONCHATOUA July of 1970 through May of 1974. And Pat, on the right is a medallion, a seal of the Maritime Law Association of the United States, and my dear partner Jim Mosely gave that to me to give to you. He had received that at the MLA conference in Bermuda in 1972 as a member of the Board of Directors, so tradition moves it forward to you.

In the middle is the ship PONCHATOULA. And it continues, to over 30 years of practicing maritime law in New York and stellar leadership as President of the Maritime Law Association of the United States from May 2010 through May 2012. Then the traditional silver oar of admiralty and we have a little history for the fans here. Pat, thank you very much.

(Applause.)

MR. PARRISH: And another little trinket, Dear Mr. Bonner -- this is from the USS PONCHATOULA Shipmates Association. They want your dues, Pat. We have paid the first year. "Dear Mr. Bonner, I want to thank you for your service. You receive this letter as acceptance and notification of your membership in the USS PONCHATOULA Shipmates Association."

(Applause.)

MR. PARRISH: As they said in Pulp Fiction, "we ain't done with you by a long shot." We have one more thing we'd like to send you, Pat. I want to recognize Past President Liz Burrell and give her the stage. As she sets up, I want to tell y'all you are now euterpean conspirators. I'll give you the spelling later, Madam Court Reporter. Of course you all know that Euterpe was the muse of music. When you're a dumb jock you're always having to look up the big words, so Mr. Watson helped me with that one. I'd like you to pass out a piece of paper that's coming out as quickly as we can. Many of you in the room are in on this little thing. Past President Burrell is going to lead us in a little song.

MS. BURRELL: It has often been said that words alone are inadequate to express heart-felt gratitude. The members of this Association found that something more than words was needed to express our gratitude for your extraordinary leadership and devotion, so we are going lift our voices and sing your praises in song, accompanied by guitar, one of your favorite instruments. There was only one choice for the song:

(whereupon, the assembly rose and sang):

There's a tear in your eye,
And I'm wondering why,
For it never should be there at all.
With such pow'r in your smile,
Sure a stone you'd beguile,
So there's never a teardrop should fall.
When your sweet lilting laughter's
Like some fairy song,
And your eyes twinkle bright as can be;
You should laugh all the while
And all other times smile,
And now, smile a smile for me.

When Irish eyes are smiling,
Sure, 'tis like the morn in Spring.
In the lilt of Irish laughter
You can hear the angels sing.
When Irish hearts are happy,
All the world seems bright and gay.
And when Irish eyes are smiling,
Sure, they steal your heart away.

(Applause).

MR. PARRISH: Very briefly. My wife, my dear wife, my wife and partner of 38 years who is my soul and core, I want to thank her for the work she has done, and what she will do, for the Association and I'd ask you to thank her now for that.

(Applause.)

MR. PARRISH: Secondly, my partners who have supported me for over 30 years, seven of whom, some who have never graced this hall before who have ventured here today, and I thank you for taking the time and expense to come up here.

It's not traditional that we single out members of the Association, even sometimes when our dear friends pass, as some always do, but I'm

going to take the privilege of the chair to make an exception to that rule. The man that hired me many years ago was Past President Moseley, and I had the privilege to be mentored by Jim Moseley. As y'all know I came out of a football career and went to a shabby law school that's now called Duke and Mr. Moseley rubbed a lot of the rough edges off of me and I sincerely thank you from the bottom of my heart, Jim. Thank you.

(Applause.)

MR. PARRISH: Lastly, I want to thank the current former officers and Boards, they're extremely strong, dedicated, hardworking. The Association is strong. We'll move forward. It's time to get to work.

Mr. Hooper, do I have a motion?

MR. HOOPER: While it's a pity to see an oiler, another oiler sailor leave the presidency, I was on the sister ship, the TRUCKEE (AO-147) a while ago. Both ships have been scrapped.

In any event, I wish to -- I have a motion to adjourn.

MR. PARRISH: Is there a second?

MEMBERS: Second.

MR. PARRISH: All in favor?

MEMBERS: Aye.

(The meeting concluded at 12:32 p.m.)

[16768]

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

Held at the offices of Vandeventer Black LLP

Norfolk, Virginia

on

Saturday, March 31, 2012

at

9:00 a.m.

The March 31, 2012 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

The following directors were also present:

Warren J. Marwedel, Immediate Past President

Joshua S. Force
James F. Moseley, Jr.
Dennis Minichello
Francis X. Nolan, III
Susan Dorgan
Alexander M. Giles

Bradley A. Jackson
Arthur J. "Skip" Volkle
Thomas J. Muzyka
George W. Nowell
Robert B. Fisher, Jr.
Edward J. Powers

Also present at the invitation of the President were Past Presidents James F. Moseley, Thomas S. Rue, and Lizabeth L. Burrell. In addition, Alan Van Praag participated in the discussion of the Choice of Court Convention by telephone.

SECRETARY'S REPORT

On motion duly made and seconded, the minutes of the December 3, 2011 meeting of the Board of Directors were approved. Mr. Watson reported that the Proceedings from the May 2011 meeting were being printed, and that the next edition of the MLA Report should be finalized in the next few days, and that both publications would be ready for mailing next week.

TREASURER'S REPORT

Mr. Connor reported that the Association's finances remain in very good shape. The dues invoices were delayed in going out by about three weeks while the arrangements necessary to allow payment by credit card were finalized, but approximately \$114,000 in dues payments has been received. Of this amount, approximately \$15,000 was paid by credit card, representing the dues payments of 125 members.

Mr. Connor reported that the Hawaii meeting netted a profit for the Association.

Mr. Connor also reported that Adam Reese, the accountant who has been handling the Association's account, is now with a new firm, Citrin Copperman, and transferring the account to Mr. Reese's new firm should result in continuity of handling and some savings to the Association. Accordingly, Mr. Connor recommended moving the account to Mr. Reese's new firm, and on motion duly made and seconded, the Board approved this recommendation.

On motion duly made and seconded, the Treasurer's report for the second quarter and all expenditures during this period were approved.

MEMBERSHIP SECRETARY'S REPORT

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

K. Virginia Aldrich
Washington, D.C.

Jorge Amieva
Basking Ridge, New Jersey

Thomas W. Baker
Cleveland, Ohio

Christina Bolmarcich
Baltimore, Maryland

Guillermo A. Cancio
New Orleans, Louisiana

John C. Cleary
New York, New York

Bess M. Parrish Creswell
Mobile, Alabama

Christopher J. DiCicco
New York, New York

Catherine J. Fiorentino
New York, New York

Warren E. Gluck
New York, New York

Arthur J. Gribbin (Reinstatement)
New York, New York

Melissa A. Hamann
Norfolk, Virginia

[16771]

Edward A. Harley
Seattle, Washington

Parker Harrison (Reinstatement)
New York, New York

Marissa M. Henderson
Norfolk, Virginia

Michael B. Holt
Princeton, New Jersey

Carl A. Irace
East Hampton, New York

Jeremy B. Jones
Seattle, Washington

Gunner Richard Dornonville de la Cour, Jr.
Tampa, Florida

Utsov Mathur
Houston, Texas

John P. Melko
Houston, Texas

Daniel J. Moore
Seattle, Washington

Joseph B. Pipinich
Seattle, Washington

Christian Sauce
New Orleans, Louisiana

Jonathan J.B. Segarra
Mobile, Alabama

Charmin B. Shiely
Portland, Oregon

Edgar M. Smith
Savannah, Georgia

Michael E. Streich
Houston, Texas

Lt. Brendan Sullivan
Washington, D.C.

The following application for reinstatement of Non-Lawyer membership has also been received:

George H. Boothby
New York, New York

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

Kendra E. Bray
California Western School of Law, Avalon, California

Joseph C. Devine
Benjamin. N. Cardozo School of Law, New York, New York

Christopher Hamilton
Stetson University College of Law, Gulfport, Florida

Matthew Johnson
University of San Francisco, San Francisco, California

Mr. Farrell also reported that since the Fall meeting, the deaths of the following members has been reported:

David J. Bederman, Academic, 1993, of Atlanta, Georgia
Stephen W. Graffam, Life, 1970, of Pittsburgh, Pennsylvania
John Stewart Harrison, Life, 1958, of Kentfield, California
Fredric Scott London, Proctor, 1974, of Stamford, Connecticut

Robert F. Lynch, Life , 1963, of Charlottesville, Virginia
Robert E. Patmont, Life, 1967, of San Anselmo, California
George W. Sullivan, Life, 1953, of New York, New York
Past President Kenneth H. Volk, Life, 1956, of Portsmouth; and
Joan C. Walker, Non-Lawyer, 1984, of Oradell, New Jersey
Florrie L. Wertheimer, Proctor, 1975, of New York, New York

On motion duly made and seconded, these applications for membership were approved. With these new members, the membership of the Association stands at 2,893, consisting of 1,279 Proctor members (of whom 316 are Life members), 1,213 Associate members, 175 Non-Lawyer members (of whom 13 are Life members), 36 Academic members (of whom four are Life members), 44 Law Student members, 127 Judicial members (of whom 15 are Life members), five Honorary members, and 14 Ex Officio members.

Mr. Farrell also presented data regarding membership trends. Membership has declined since the mid-1990's, and the loss of dues will be accentuated in the coming decade as many members who joined the Association in the late 1970's and early 1980's become Life members. Accordingly, active membership recruitment by MLA members of lawyers and non-lawyers in admiralty and related maritime fields is critical for the MLA to continue its role in the years ahead. In this regard, the Board discussed the desirability of reaching out to the maritime plaintiffs' personal injury bar.

Mr. Farrell also presented proposed amendments to two of the by-laws to deal with the dues from Law Student members. Because these members often move and change email addresses, they sometimes do not receive dues invoices. Accordingly, Mr. Farrell proposed amending the By-Laws to provide for a one-time payment of dues by Law Students, the amendments reading as follows (with new language underlined):

208. ELIGIBILITY FOR LAW STUDENT MEMBERSHIP

Any person who is a resident of the United States, who is enrolled as a full time student in a U.S. school of law, accredited by the American Bar Association, and who has expressed an interest in the practice of admiralty law,

shall be eligible for Law Student membership, which shall terminate at the end of the calendar year in which the member graduates or ceases to be a student in good standing at the school. An applicant shall file with the Membership Secretary an application for Law Student membership on a form provided by the Membership Secretary, accompanied by a one-time dues check in an amount set by the Board of Directors. Each application shall be supported in writing by a professor or administrative official at the law school attended by the applicant or by a member of the Association. The letter shall be annexed to the application.

210. DUES

The amount of annual dues of members shall be fixed by the Board of Directors and shall be payable on May 1 of each year, with the exception of Law Student members, whose dues shall be payable as set by the Board of Directors. The following classes of members shall be exempt from the payment of dues:

1. Honorary, Ex-Officio, and Judicial members.
2. Members in good standing who have, as of May in any year, maintained membership in the Association for 40 years. Members so exempted shall be designated as Life Members.

Mr. Farrell also recommended that the application for Proctor status be amended to incorporate the recent decision to encourage Academic members to apply for Proctor status, to allow the Board of Directors the discretion to confer Proctor status without the recommendation of the Committee on Proctor Admissions, and to award full credit for each hour of attendance in continuing legal education. As amended, paragraphs 1 and 3 of Section II of the application form would read as follows:

1. Associate Lawyer or Academic membership in good standing in the Association for a period of at least four (4) years and admitted to the practice of law before any of the several courts in the United States. (Upon recommendation of the Committee on Proctor Admissions, or in the Board of Directors' discretion, the Board of Directors may waive the four-year requirement if an applicant is otherwise qualified for Proctor membership).

* * *

3. At least one of the following:
- a. evidence of earning a total of 20 credit points in continuing legal education in the field of Admiralty after the admission to the applicable state bar, computed as follows:
 - i. one ~~half~~ (1/2) point for each hour of attendance at a seminar approved by the Association's Committee on Continuing Legal Education;
 - ii. one (1) point of each hour of class attendance at a post-graduate course in Admiralty conducted by an ABA accredited Law School; or

On motion duly made and seconded, these amendments to the By-Laws and the application form were approved.

DISCUSSION ITEMS

Amicus brief request in Lozman v. City of Riviera Beach

The Association has been asked to file an amicus brief on the merits in this case involving whether a more-or-less permanently moored houseboat is a vessel. While presumably the Supreme Court will resolve the apparent conflict that currently exists between the circuits, concern was expressed that the Court might not appreciate the potential that this

issue presents across a broad spectrum of maritime law, particularly with regard to marine financing. The Board agreed that the subjective intent of the owner should not be a factor in determining vessel status, and on motion duly made and seconded, approved the filing of an amicus brief making this point and alerting the Court to the potential problems that this issue presents for marine financing. President Bonner asked Messrs. Nolan and Force to get members of the Marine Financing and Practice & Procedure committees to coordinate on the preparation of the brief.

Amicus brief request in *Minton v. ExxonMobil*

President Bonner reported that the Association has received a request for a brief on the merits in this matter, which involves the application of the *Scindia* test. The Association had earlier rejected a request for a brief in support of the petition for certiorari to the Virginia Supreme Court, which has now granted the petition. A vote of the Board on whether to file an amicus brief will be held after the Board members are able to review the briefs in the case the submissions of both parties.

Choice of Court Convention

This convention has been proposed to assist in the enforcement of U.S. judgments abroad. The State Department's proposal envisions a model based on "cooperative federalism," whereby matters governed by state law would be governed by state statutes modeled after the Convention. Some concern was expressed as to whether the Convention is necessary, in that, generally speaking, U.S. judgments are enforced by other countries, and the principal areas where U.S. judgments are refused recognition would also be refused recognition under the Convention. The Board was of the view that we should support the State Department and indicate that we approve of the Convention in principle, but express our opposition to the notion of "cooperative federalism," since if this is incorporated into other regimes in the future, it has the potential for disrupting uniformity.

Clergy Members

A request has been made by a member who has taken Holy Orders and is now working full time in the ministry for a waiver of his

dues. Given the fact that these circumstances will arise only very rarely, the Board agreed to grant this dispensation from the payment of dues.

Policy on posting “Best Lawyers” ratings on web site

A number of members have requested that their inclusion in lists of “Best Lawyers,” “Superlawyers” and similar lists be included on the Breaking News page of the website. In view of the number of members who are included on such lists, the Board agreed that recognition of this nature should not be posted.

Use of and registering of the Association logo

A recent request for permission to place the Association’s logo on a law firm website has highlighted the need to register the logo. Mr. Watson will inquire whether someone in his firm can accomplish this.

Reprinting of MLA publications

Concern has been expressed about the use of Association publications without proper attribution. President Bonner asked Ms. Dorgan and Messrs. Fisher, Giles and Powers to study this issue and report to the Board with recommendations for a policy.

Policy on blasts, mailing lists and labels

President Bonner reiterated the policy regarding the Association providing its mailing list or labels or sending out email blasts. If the organization requesting this provides a discount to MLA members for the program being advertised, the Association will provide this service free of charge, but otherwise will charge for it.

BOARD SUBCOMMITTEE REPORTS

Proctor Status

Mr. Powers reported that all Associate members who have met the waiting period to become Proctors have been reminded that they are eligible to apply for Proctor status. It was noted that this needs to be done on a continuing basis.

It was also noted that the Association makes it quite clear that the Proctor designation is solely a designation of a member's status within the Association, and is no way intended to be a certification to third parties.

REPORTS

Foreign lawyers at Spring meeting

President Bonner reported that a number of foreign lawyers will be speaking at various committee meetings in May. This is to be encouraged, as the presence of these lawyers at our meetings is mutually beneficial to both the visiting lawyer and our members.

Rotterdam Rules status

President Bonner reported that a meeting was held to discuss a question that had been raised regarding the potential liability of port authorities under the Rotterdam Rules. This meeting gave Messrs. Hooper and Sturley the opportunity to discuss the status of the Rules with the State Department.

MARAD Forum

Mr. Marwedel reported that because of a change of personnel in the MARAD general counsel's office, and the Association is waiting on MARAD to move forward with the establishment of a MARAD Forum along the lines of the Coast Guard Forum. The Association believes that this is a useful endeavor.

Coast Guard Forum

Mr. Marwedel reported that the Coast Guard is currently working on draft regulations to govern one person boards of investigations. The Coast Guard has indicated that once it has completed this, the Association will be asked for comments.

CMI Meeting Spring 2016

President Bonner reported that he has asked Vincent Foley to serve as the MLA's representative in coordinating the meeting of the CMI that will be held in New York in the spring of 2016.

Summer Board meeting

Mr. Parrish reported that the summer Board meeting will be held in Boston. The majority of the Board was of the view that August 4 was the best date for this meeting.

Fall 2012

Mr. Clyne reported that the Cipriani Hotel on Wall St. would be a superior venue for the dinner dance to be held in conjunction with the Fall Meeting. The majority of the Board agreed that we should look into what the cost would be at the Cipriani and consider what the attendance would be there.

Fall 2013

Mr. Parrish reported that plans are going forward for the Fall 2013 meeting to be held in Puerto Rico. El Conquistador is the likely venue, and Mr. Parrish and Mr Radcliffe, chair of the meeting have visited the site. The meeting will be a joint meeting with the Instituto Iberoamericano de Derecho Marítimo, and Mr. Parrish is working with William Graffam, president of the IIDM, to coordinate this.

BIMCO

Ms. Burrell reported that Keith Heard's efforts to preserve New York as a named alternate arbitration venue in the new BIMCO sales form have been successful. The form will only be available on the BIMCO website, and the blank for the place of arbitration will have "drop down" options, one of which will be New York. This will be the subject of further discussions at the BIMCO meeting in Singapore in April 2012.

On the other hand, Mr. Nolan reported that he understood that the new BIMCO shipbuilding form eliminates New York as an arbitration venue. This will be explored further, but the Board discussed whether the Association should develop its own set of forms for charters, shipbuilding contracts, etc.

Salvage Convention

President Bonner reported that the Salvage Committee has withdrawn its request that the Association vote on the proposed amendments to the Salvage Convention.

Leases as financing documents

Mr. Nolan reported that a draft statute prepared for the Liberian Maritime Law to provide for the treatment of certain demise charters as preferred mortgages had been modified to adapt it for passage by the Marshall Islands and transmitted to International Registries for consideration and he is hopeful that legislation will be forthcoming within the year.

There being no further business to be considered by the Board, the meeting was adjourned.

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
New York, New York
on
Thursday, May 3, 2012
at
9:30 a.m.

The May 3, 2012 meeting was called to order by President Patrick J. Bonner at 9:30 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

The following directors were also present:

Warren J. Marwedel, Immediate Past President

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
Susan Dorgan	Robert B. Fisher, Jr.
Alexander M. Giles	Edward J. Powers

Ms. Robin Becker was also present at the invitation of President Bonner.

Secretary's Report

On motion duly made and seconded, the minutes from the March 31, 2012 meeting of the Board of Directors were approved. Mr. Watson

also reported that the Proceedings from the May 2011 meeting and the MLA Report have been mailed, and that the Proceedings from the December 2011 meeting should be ready to go to the printer in the next couple of weeks.

Mr. Watson also reported on the reception held by the Houston members of the Association on April 25. The event was very well attended, with a high proportion of the members attending being younger lawyers.

Mr. Watson also reported that it would cost approximately \$1500 to register the Association's logo. The Board agreed that this should be undertaken.

Treasurer's Report

Mr. Connor reported that the Association's finances are ahead of last year, despite a three week delay in getting dues invoices out in order to finalize the arrangements to pay dues by credit card. Approximately 65% of this year's dues have been collected, and reminder statements will go out by mail later this month, and the names of members who are two and three years in arrears will be circulated to the Board for follow up. Mr. Connor also reported that the check scanner is operational and working well, and that the credit card facility is also working well. On motion duly made and seconded, the Treasurer's Report was approved.

Membership Secretary's Report

Mr. Farrell reported that the following 54 Associate members have been recommended for Proctor status by the Proctor Admissions Committee:

Larry E. Altenbrun
Seattle, Washington

Timothy E. Annin
Haddonfield, New Jersey

Noreen D. Arralde
Jersey City, New Jersey

Elizabeth P. Beazley
Long Beach, California

Lili F. Beneda
New York, New York

Robert B. Birthisel
Tampa, Florida

Richard A. Branca
Houston, Texas

Christine Z. Carbo
Houston, Texas

Robert C. Chiles
Palo Alto, California

John H. Cigavic, III
San Francisco, California

Attilio M. Costabel
Miami, Florida

CDR Michael T. Cunningham
Miami, Florida

Dong-Hee Suh
Seoul, Republic of Korea

C. Ryan Eslinger
Jacksonville, Florida

J. Rice Ferrelle, Jr.
Jacksonville, Florida

John K. Fulweiler
Quonset Point, Rhode Island

Kelly M. Haas
Galveston, Texas

Jerry D. Hamilton
Miami, Florida

Christopher R. Hart
Houston, Texas

Timothy W. Hassinger
Mandeville, Louisiana

Jeremy A. Herschaft
New York, New York

Michael B. Holt
Princeton, New Jersey

Lisa M. Houlihan
Alameda, California

Brian Keane
Boston, Massachusetts

Terence G. Kenneally
Boston, Massachusetts

Michael A. Khouri
Washington, DC

James P. Koelzer
Los Angeles, California

Joseph F. Kulesa
Mount Pocono, Pennsylvania

Marc I. Kunkin
New York, New York

Charles J. McCarthy
Cambridge, Massachusetts

Michael F. Merlie
West Chester, Pennsylvania

Elissa M. Mulrooney
Memphis, Tennessee

Charles E. Murphy
Southport, Connecticut

Thomas C. Murphy
Youngstown, New York

Charles P. Neeley
Philadelphia, Pennsylvania

Christopher R. Nolan
New York New York

Gregory W. O'Neal
Memphis, Tennessee

Patricia M. O'Neill
Secaucus, New Jersey

Richard E. Ottinger
Norfolk, Virginia

Joseph J. Perrone
New York, New York

James B. Re
Boston, Massachusetts

Chris P. Reilly
Seattle, Washington

David E. Russo
San Francisco, California

Lawrence Rutkowski
New York, New York

William P. Ryan
Chicago, Illinois

Richard F. Salz
New York, New York

James A. Saville, Jr.
New York, New York

Steven L. Snell
Baltimore, Maryland

Douglas W. Truxillo
Lafayette, Louisiana

Christoph M. Wahner
Los Angeles, California

Jared A. Washkowitz
Honolulu, Hawaii

Jon W. Wise
New Orleans, Louisiana

James E. Wright, III
New Orleans, Louisiana

Wayne G. Zeringue
New Orleans, Louisiana

Mr. Farrell also reported that the following 27 individuals had applied for Associate membership:

Orla M. Brady
Washington, DC

Diana Castiov
San Francisco, California

David P. Cole
New York, New York

Michael G. Davies
New York, New York

Lauren M. Engel
Washington, DC

William W.C. Harty
Newport News, Virginia

Nathan R. Jaskowiak
San Francisco, California

F. Daniel Knight
Houston, Texas

Anne L. Kulesa
Stroudsburg, Pennsylvania

Ross I. Landau
Long Beach, California

Marie Larsen
New York New York

Adam H. Lotkin
Norfolk, Virginia

P. Ryan McElduff
Newark, New Jersey

Coleen A. McEvoy
New York, New York

Bobby R. Miller, Jr.
Paducah, Kentucky

Michael A. Orlando, Jr.
Houston, Texas

Luke M. Reid
Boston, Massachusetts

Laurie J. Sands
Morristown, New Jersey

Konstantin Savransky
San Francisco, California

Michael L. Schein
New York, New York

Michael G. Scott
Scituate, Massachusetts

J. Scott Scherban
New York, New York

Brooke F. Shapiro
New York, New York

Robert P. Stenzhorn
Newport News, Virginia

David A. Tong
Long Beach, California

Daniel H. Weiner
New York, New York

Holly M. Whalen
Pittsburgh, Pennsylvania

In addition, the following five persons were recommended for Non-Lawyer membership by the Committee on Non-Lawyer Nominations:

Roger F. Ablett
New York, New York

Richard Basom
Elk Grove Village, Illinois

Michael T. Monahan
Plantation, Florida

Randy O'Neill
Long Beach, New York

Mark Smieya
Edison, New Jersey

Mr. Farrell also reported that the following eight applications for Law Student membership have been received:

O. Shane Balloun
Tulane Law School, New Orleans, Louisiana

Colleen E. Callahan
Florida Coastal School of Law, Jacksonville, Florida

Siwei Chu
Tulane Law School, New Orleans, Louisiana

Michael Dehart
Tulane Law School, New Orleans, Louisiana

Ling Li
Tulane Law School, New Orleans, Louisiana

Ryan Martin
Tulane Law School, New Orleans, Louisiana

Brad Pace
Tulane Law School, New Orleans, Louisiana

Xuelei Xu
Tulane Law School, New Orleans, Louisiana

On motion duly made and seconded these applications for membership were approved. With these additions to membership, the membership of the Association is as follows:

Proctor	1,337 (including 319 Life Members)
Associate	1,186
Non-Lawyer	180 (including 13 Life Members)
Academic	35 (including 4 Life Members)
Law Student	52
Judicial	115 (including four Life Members)
Honorary	5
Ex-Officio	14

Thus, the total membership of the Association now stands at 2,935 with 2,454 dues paying members. This is an increase of 127 members and 118 dues paying members over the last year.

Mr. Farrell also reported that the Maritime Administrative Bar Association consists of lawyers whose practice involves administrative and legislative bodies dealing with maritime law. He recommended that an overture be made to members of this group to join the Association, and the Board agreed with this recommendation.

Board Subcommittee Reports

Publication of MLA Documents

Ms. Dorgan reported that she and Messrs. Fisher, Giles and Powers had met as a subcommittee of the Board to consider under what circumstances MLA publications should be reprinted. The general consensus was that submission of a document such as a newsletter for publication in an Association publication should constitute a grant of copyright rights to the MLA, and that while permission to reprint should be granted freely, acknowledgement of the Association's rights should be acknowledged. A resolution will be prepared for submission at the next Board meeting to this effect.

Membership Questionnaire

Mr. Muzyka reported that he and Messrs. Michello, Nolan and Nowell are preparing a questionnaire to be sent to the membership regarding membership issues. Mr. Muzyka will report on this at the General Meeting.

Reports

August Board Meeting

First Vice President Parrish reported that the next meeting of the Board will be held on August 3-4 in Boston, and that a contract has been signed with the Millennium Hotel. Messrs. Farrell and Muzyka will reach out to maritime lawyers in the Boston area who are not members of the MLA to invite them to a reception along with local MLA members in conjunction with that meeting.

Amicus Curiae

Messrs. Nolan and Force reported on the amicus brief being prepared in *Lozman*. They have reached out to Prof. Sturley, since the Association's brief is essentially in support of the respondent, and our brief will be due in mid-July.

President Bonner reported on the status of *PMSA v. Goldstene*, in which the Association has filed an amicus brief. The Supreme Court has asked the Solicitor General if the government is going to take a position, and the Coast Guard is discussing this with the Solicitor General's office.

Fall 2012

Mr. Clyne reported that the New York firms have expressed a preference for the Cipriani Wall Street as a venue, and have expressed support for the event. Pricing for the event was discussed.

Fall 2013

Mr. Parrish reported on the Fall Meeting to be held in Puerto Rico. The meeting will be held as a joint meeting with the Instituto Iberoamericano de Derecho Maritimo, who expect to have approximately 100 members in attendance.

MARAD

Immediate Past President Marwedel reported that the Joel Szabat is the new executive director of MARAD. The Association is waiting to hear from MARAD regarding the proposed MARAD Forum.

Board Handbook

Mr. Parrish reported that he will be editing the Board Handbook in due course.

IMO Legal Committee

President Bonner reported on the recent meeting of the IMO Legal Committee that he attended. The three issues that were discussed were the raising of the limits under the Limitation of Liability for Maritime Claims Convention, an Indonesian proposal for a convention on transnational oil pollution, and the lack of coverage for pollution from Iranian oil. It was proposed that the limits under the LLMC be raised by 6% a year retroactively to 1996, but a smaller increase was agreed upon. In view of the fact that it is highly unlikely that the United States would

take up adoption of the LLMC at this time, the Board did not believe that it made sense for the Association to take a position at this time on this issue.

United Nations Convention on the Law of the Sea

President Bonner reported that U.S. mining companies want the U.S. to accede to UNCLOS, but there is opposition from some Republican Senators. The Association will be asked to again state its support for the Convention.

Nominating Committee

Immediate Past President Marwedel reported that the Nominating Committee had nominated Mr. Parrish for President, Mr. Clyne for First Vice President, Mr. Watson for Second Vice President, Mr. Farrell for Secretary, Mr. Connor for Treasurer, Barbara Holland for Membership Secretary, and Joseph Walsh, Michael Bell, Katherine Newman and Charles Anderson for the Board of Directors.

Discussion Items

Commodities Committee

President Bonner reported that Declan McKeever, a member who practices in London, has suggested that a committee be established to deal with commodities issues. The Board discussed whether a stand-alone committee, subcommittee of an existing committee or a joint subcommittee of more than one committee would be the best vehicle. There was a general consensus that initially a working group should be established until the degree of interest in this subject can be determined.

Regional MLA "Events"

A discussion was held regarding holding social events in various locations with local members and prospective members. This was viewed as a good way of attracting new members.

Partnering with “For Profits”

The Association was recently asked to partner with a for profit group in sponsoring a seminar. The Board was of the view that great care has to be exercised in partnering with any group with whom the Association is not very familiar.

Web site issues

The Board held a lengthy discussion regarding the website. Issues discussed include whether the website should be viewed solely as something to be used by members, or should be viewed as a tool to attract new members, and how the website could be both attractive to both members who are technologically proficient and those who are not. Mr. Parrish indicated that he will be interviewing a consultant and will discuss these issues with him.

Tulane Admiralty Law Institute

Mr. Fisher announced that the Tulane Admiralty Law Institute will be held on March 13-15, 2013. The Board approved placing fliers for the Institute in the anteroom for the General Meeting and to have Mr. Fisher make a brief announcement regarding it.

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

Harold K. Watson

Secretary

Report of the Young Lawyers Committee

Message from the Chair

Yes, it is that time again. The Spring MLA meeting in New York is upon us. I personally am delighted by the early spring weather and look forward to our usual meeting and social festivities. I am also pleased to be hosting my first New York YLC meeting as Chair of the Young Lawyers Committee. For those of you that may be new to the MLA, allow me to introduce myself, along with YLC Vice Chair, **Norman Stockman**, and the latest edition to our team, YLC Secretary, **Draughn Arbona**. We will endeavor to keep up the longstanding traditions of the YLC, most recently led by past Chair, **Alex Giles**, who has left our ranks and has since been elected to the MLA Board of Directors. Way to go Alex!

In advance of this year's meeting, a few changes in the plans for our committee should be noted. Instead of convening downtown at Freehill Hogan & Mahar LLP, as we have for many years, we will be meeting in midtown at Holland & Knight, who have graciously offered to host our meeting. We will start at our usual time on Thursday afternoon, details below, however this year, given our often tightly packed agenda, we have arranged to allow two hours for our meeting. Despite these minor changes, rest assured that our usual YLC social event will take place Thursday evening at the latest NYC hot spot selected by our expert social planner, **Pamela Schultz**.

As always, I look forward to catching up with old friends and hope to meet some new ones in just two short weeks.

- Betsy Bundy

YLC Spring Meeting in NYC

The Young Lawyers' Committee will be meeting at our usual time, but at a new midtown location and for an extended two-hour meeting to accommodate our full agenda! Here are the details:

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Young Lawyers' Committee Meeting
Thursday, May 3, 2012
2:00-4:00 p.m.
Holland & Knight
31 West 52nd Street
New York, NY 10019
Tel: 212-513-3200

This year's meeting will feature a panel presentation by Chris Nolan, Pamela Palmer, and Sean O'Neil on Marketing & Practice Development Strategies for Young Lawyers

We are pleased to welcome this esteemed panel of YLC Members to discuss topics that are relevant and important to us all. Specifically, Chris, Pam, and Sean will be discussing business practice development strategies from both the larger firm and solo practitioner perspectives and offering ideas of how to develop existing firm clients, obtain new business, utilize organizations such as the MLA, and capitalize on online resources. Please come ready with questions and to join in what promises to be a fruitful and engaging discussion.

If you plan to attend the meeting please e-mail YLC Secretary, Draughn Arbona, at usa.darbona@usa.cma-cgm.com before April 27, 2012, so that she can let Holland & Knight know who to expect. Security at Holland & Knight will likewise require that all attendees present photo identification at the desk in the lobby.

We are also planning to arrange for individuals to attend the meeting by telephone. If anyone is interested in participating by conference call, please be sure to e-mail Draughn as well by no later than May 2, 2012 and provide her with your name, e-mail address, and phone number. She will coordinate your connection to the conference call.

Committee Liaison Program

The Committee Liaison Program is entering its second full year and continues to blossom. The purpose of the program is to assign one YLC member to each of the MLA's standing committees to serve as a liaison. The obvious goal of this program is to increase the flow of communication between the standing committees and the YLC, which hopefully will lead to opportunities for our members in those standing committees as well as allowing for the mobilization

of our membership to assist in projects being undertaken by the standing committees. Additionally, Liaisons will provide a brief status report at each YLC Spring meeting pertaining to the work of that particular standing committee.

A chart identifying the appointed Liaison volunteers is posted on our page of the MLA website for everyone's reference. Let this serve as a reminder to our Liaisons that this committee is ready to work. Spread the word to your respective committees and please call on us if we can be of service.

Additionally, the MLA has recently established a new Bankruptcy Committee with John Bradley of New York as the first Chair. If you would be interested in volunteering to serve as the YLC Liaison to this new committee, please e-mail Betsy Bundy. Any other questions regarding the YLC Liaison Program or a request for volunteers can likewise be directed to Betsy at bundy@freehill.com.

Ongoing Projects

MLA Resolutions Project - The Secretary of the MLA, Hal Watson, requested the assistance of the Committee for a project to research and compile all of the Resolutions passed by the Association since its formation in 1899. This project was spearheaded by former Chair Alex Giles and has since been taken over by Vice Chair Norman Stockman. Our members have been tirelessly working to finalize this project, which is nearing completion. We would like to thank the following individuals for their contributions thus far: Patrick Ward, Joseph Peck, Tara Voss, Patricia O'Neill, and Luis Raven. A few new volunteers may be needed for the final completion of this project. Anyone available to assist should contact Norman via e-mail at nstockman@handarendall.com.

Marine Insurance Definition Project - Thanks to our YLC Liaison to the Committee on Marine Insurance and General Average, Stephanie Espinoza, the YLC has been asked to assist on a project to analyze the definition of Ocean Marine Insurance in U.S. jurisprudence and regulation, and create a proposal for a uniform definition. This project will build on the initial research of Graydon Staring, former president of the MLA, and will hopefully provide a comprehensive analysis that can be used in practice. Work on the project began last year and continues to

move forward. The committee expects that the project will be completed by the Fall meeting. We would like to thank the following YLC members who have worked on the project thus far: Jonathan Wright, Scott Sheffler, and Abby Nitka.

Recent Projects

We have had an onslaught of recent requests for volunteers to assist in drafting various committee newsletters, primarily by summarizing recent and relevant decisions. The response from our members that are ready, willing, and able to volunteer has been overwhelming.

At the request of Jason Harris, Vice Chair, of the Salvage Committee, and led by YLC committee liaison Scott Sheffler, Jessica Martyn, Sam Blatchley, and Daniel Cragg, have assisted in preparing the Salvage Committee's latest edition of the newsletter "Recent Developments in Salvage Law," which should be completed at the end of this month.

At the request of Dennis Minichello, the Chair of the Marine Ecology and Maritime Criminal Law Committee, several volunteers including Christian Packard, David Garfinkel, Jude Smith, Guy Manchuck, and Vince Reuter assisted by summarizing cases for publication in this Spring's committee newsletter.

At the request of Dan Wooster, Editor of "Boating Briefs," the Recreational Boating Committee newsletter, volunteers Christian Packard, Patrick Ward, and David Garfinkel assisted in summarizing recent cases for inclusion in the next edition.

Call for Projects

To the Standing Committees: Please let us know how we can help with your projects. If you have projects in need of research or have writing opportunities that are well-suited for younger lawyers, please keep our committee in mind. Additionally, we can usually find a YLC member to assist with staffing your meeting (handling CLE paperwork, sign-in sheets, handouts, and assisting with presentation set up, etc.) if and when the need arises.

Publication Opportunities

Do you have any war stories from your practice that you wish to share with others? Do you think you have a sense of humor? Consider submitting your written piece for consideration to Benedict's Quarterly Maritime Bulletin. You may write to Managing Editor Joshua S. Force at jforce@shergarner.com.

Proctor Status

Any Associate member of the MLA who has been a member of the MLA for four years or more is eligible to apply for Proctor status with the MLA. The advantages of Proctor status are numerous, not the least of which is that a member cannot serve as a committee chair, vice-chair or director unless s/he is Proctor or Non-Lawyer member. Proctor applications may be obtained from the MLA Membership Secretary or may be downloaded from the MLA website (www.mlaus.org) in the "Membership Forms" section.

YLC Membership List on Website

We would like to remind everyone of our ongoing efforts to clean up the Membership List that appears on the Young Lawyers page of the MLA website. In reviewing the list, which is generated by the selections made by each of you in your own profiles, it is apparent that some individuals who are currently identified as a "Voting" member of the Committee probably should be a "Listening" member instead, and there are other individuals where the opposite should be the case.

Many of you have responded to our previous requests, but there is still work to be done. Therefore, we ask again that everyone please review their profiles and make the necessary changes to help us identify the core, active members of our Committee.

We also use the membership list on the website as a vehicle for communicating with our members. In this regard, we have reason to believe that some of our young lawyers are not signed up as member and thus do not receive our communications. If you know anyone that might fall into this category, please pass this along and encourage them to

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formally join via the website so they can stay in the loop. Likewise, feel free to unsubscribe if you feel you are no longer interested in receiving our communications.

We look forward to seeing you in New York next week!

Betsy Bundy, YLC Chair
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Norman Stockman, YLC Vice Chair
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