



THE MARITIME LAW ASSOCIATION
OF THE UNITED STATES

MLA PROCEEDINGS

Spring Meeting, May 1, 2015
New York City, New York

Present:

ROBERT G. CLYNE
HAROLD K. WATSON
FRANCIS X. NOLAN, III
DAVID J. FARRELL, JR.
WILLIAM ROBERT CONNOR, III
BARBARA L. HOLLAND
ROBERT B. PARRISH

And the following 223 members:

Kirby Aarsheim	Dick Basom
Andy Aley	Elizabeth Beazley
Charles B. Anderson	William E. Bell
Olaf Aprans	Jaime Betbeze
Manfred W. Arnold	Thomas Berkley
Tyler Arnold	F. Nash Bilisoly
Todd M. Baiad	Bill Birkhead
James Bailey	Gavin Black
Rob Bamdas	Michael Black
Jason B. Barlow	Samuel Blatchley
James W. Bartlett, III	Forrest Booth

Larry Bowles	Anacarolina Estaba
David Boyajian	John Farmer
Twain Braden	William Fennell
John E. Bradley	J. Rice Ferrelle, Jr.
Richard Branca	Carol Finklehoffe
Lawrence B. Brennan	Robert B. Fisher, Jr.
James Brockmeyer	Delos E. Flint
Patrick Brogan	Vincent J. Foley
Philip S. Brooks, Jr.	Lars Forsberg
Walt Brudzinsky	Shari Friedman
Mark J. Buhler	Peter Frost
Phillip Buhler	Brad Gandrup, Jr.
Lucienne C. Bulow	Claire E. B. Garza
Lizabeth Burrell	Erik D. Garza
Meighan Burton	Kenneth J. Gelpi, Jr.
Paul E. Calvesbert	Alexander M. Giles
Dennis A. Cammarano	Ryan Gilsenan
Christopher Carey	Francis J. Gonynor
Michelle Castle	William Graffam
Rau Chacon	Joe Grasso
Conte Cicala	Aaron Greenbaum
Mark Coberly	John Grimmer
Daniel J. Cragg	Scott Gunst
John Crowley	David Hannan
Blythe K. Daly	Christopher Hannan
Philip Davey	Chris Harrell
Martin Davies	Jason R. Harris
Christopher O. Davis	Kevin Hartmann
Hon. Mark S. Davis	Thomas J. Hawley
Robert A. Degan	Raymond P. Hayden
Charles De Leo	Keith W. Heard
Juan Carlos Deliz	Kasee Heisterhagen
Vincent M. DeOrchis	Julius H. Hines
Christopher Dillon	Seth S. Holbrook
Susan Dorgan	Chester D. Hooper
William A. Durham	Lori Hopkin
Brian Eisenhower	Rob Hopkins
Gary English	David Horr

Kristi Hunter	Daniel G. McDermott
Grady Hurley	Brian McEwing
Robb Hyde	CAPT P.J. McGuire
James Jones	Peter A. McLauchlan
Leo G. Kailas	Colin McRae
Terence Kenneally	Bryan K. Meals
Larry Kiern	James Mercante
John D. Kimball	Dennis Minichello
Ronald J. Kitto	Klaus Mordhorst
Robert Klawetter	James Moseley, Jr.
Jason Krajewski	Tom Muzyka
Lynn L. Krieger	James Noel
A.J. Kuffler	Chris Nolan
LeRoy Lambert	Michael Northmore
Ross I. Landau	David A. Nourse
Dwight J. LeBlanc, Jr.	George W. Nowell
Edward LeBreton	Robert O'Brien
Melanie Leney	Kevin O'Donovan
Richard M. Leslie	Armand Pare
John J. Levy	Bess Creswell Parrish
Ryon Little	Dustin Paul
Todd Lochner	Stephanie Penninger
Stan Loosmore	Dabney Pettus
Geoffrey A. Losee	Jennifer Porter
M. Lane Lowry	ADM Steven D. Poulin
Henry C. Lucas, III	Edward J. Powers
Clay Maitland	Anthony J. Pruzinsky
John Manly	Daniel W. Raab
David Martowski	Lennard K. Rambusch
Carole Martrou	Timothy D. Rau
Jessica Martin	Eduardo Real
Warren Marwedel	Lisa Reeves
Robert K. Marzik	Steve Rible
Patrick McAleer	J. Ramon Rivera-Morales
Brian Buckley McAllister	William J. Riviere
Jessica McClellan	Edward Robb
John Ray McConnell	C. Kent Roberts
Howard McCormack	Paul S. Rosenlund

Thomas S. Rue
 Thomas A. Russell
 John Ryan
 Michael Ryan
 Lindsay Sakal
 Alan G. Sampson
 James Saville
 John Schouest
 Cristina Schovajsa
 Janis G. Schulmeisters
 Gordon D. Schreck
 Pamela Schultz
 Jonathan Ben Segarra
 David J. Sharpe
 Imran Shaukat
 Jim Shirley
 David F. Sipple
 David W. Skeen
 Jonathan Skipp
 Peter Skoufalos
 David Smith
 Edgar Smith
 Jonathan Spencer
 Steven M. Stancliff
 Douglas Stevenson

Norman Stockman
 Michael F. Sturley
 Norman Sullivan
 David Sump
 Michael L. Swain
 Joseph P. Tabrisky
 Paul Tecklenburg
 Kevin Thornton
 Joseph D. Turano
 Michael R. Underhill
 John P. Vayda
 Arthur Volkle, Jr.
 David R. Walker
 Joe Walsh
 Rahul Wanchoo
 Deborah C. Waters
 William H. "Sandy" Welte
 Ralph White
 Stephen White
 James F. Whitehead
 Arthur "Bo" Williams
 Andrew C. Wilson
 Jon Wise
 John Woods

And the following 21 guests:

David Colford
 Cathy Clyne
 Anne F. Dorsey
 Rebecca Dorsey Dybas
 CAPT Anne Fischer
 John Hare
 Juan Jaeger, Jr.
 ADM Frederick J. Kenney
 Audrey Kravets
 Erik Kravets
 Soren Larsen

Luiz Roberto Leven Siano
 Alessander Lopes Pinto
 James Manson
 Bernado Mendes Vianna
 Casey O'Brien
 John O'Connor
 LT Lars Okmark
 Fabiana Simões Martins
 Forrest Parrish
 Dr. Dieter Schwampe

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PRESIDENT CLYNE: Good morning and welcome. Thank you very much for attending this morning. We're going to follow the procedure that we've followed the last few meetings and start with the Officers' Reports followed by the introduction of our guests.

Okay. So I will now call the meeting to order and ask for the Secretary's Report, Dave Farrell.

MR. FARRELL: Thank you, Mr. President. Good morning. It's been a beautiful spring week here in New York City. It's great to be here.

I remind speakers, when you come down to the microphone, please hand a business card to Georgia Winegeart, the court reporter. She's here today compliments of Crites Reporters of Savannah. Tommy Crites tells me he is celebrating his 45th year doing court reporting in 50 countries and he has been very supportive of the MLA. So please consider Crites for your international and domestic court reporting needs.

Since our Philadelphia meeting last fall, the Board spent a lot of time on the new website. When we met as a Board in March in New Orleans, we were T-minus 10 days and counting to the launch of our new website, but to complicate things, we were also T-minus 20 days to the loss of our old website because our server was going to evaporate. So we were faced with the very real dilemma of making sure that we launched our new website or we weren't going to have any online presence, and that would have caused all sorts of problems including making dinner reservations for tonight's Cipriani dinner.

This was kind of like going to trial: It forces you to really focus on contingencies and logistics. And I think we were able to pull it off very well, thanks in large measure to the Herculean work of Lynn Krieger, who will be talking about the website later on today. There's a few kinks that need to be worked out, and we need to get our document library online, but this will happen.

It's also reassuring that despite our advances, there are technologically capable Members of our Association who have a deep appreciation for the historical documents the MLA has assembled over the years.

We are a nomadic group. We don't really have a headquarters. Our papers go from one President's office to another President's office or, more appropriately, from one Secretary's conference room to the next Secretary's basement. And as a result, we've had dozens of boxes of documents accumulate over the years in various locales.

Bill Bell has rounded up all of these boxes. There are now 72 sitting in his office here in Manhattan and he's going to take on the task of sifting through them. We're confident he's going to find all sorts of gems: Correspondence from the original passage of the Jones Act; letters back and forth from MLA Past Presidents to important jurists; and, who knows, maybe a parchment copy of The Rules of Oleron.

Since last October, there have been several events attended by MLA representatives. On November 4th, 2014, Past Presidents Hooper, McCormack, Hayden, and Burrell at President Clyne's request attended the 225th anniversary of the Southern District of New York during which our MLA Judicial Member, Judge Haight, spoke about Admiralty's Silver Oar. His remarks have been printed in *The MLA Report*, edited by Chester Hooper and David Nourse, which is available outside on the table where you signed in today.

Also, last November, President Clyne and Past President Parrish traveled to Lisbon, Portugal -- and I'm going to chicken out here -- to attend the Iberoamerican Maritime Law Institute meeting, where President Clyne delivered a paper on anti-injunction suits.

Then in January, the Officers held their annual meeting at The Army and Navy Club in Washington, D.C., hosting Coast Guard lawyers and 40 other top maritime lawyers in the federal government. We continue to get compliments from the attendees because it provides a collegial exchange for them that they otherwise wouldn't have.

In March, President Clyne sat on the oral arguments for the semi-final and final rounds of the Judge John Brown Admiralty Moot Court Competition, which is hosted by the University of Texas. Those rounds were in Charleston. But Members of this Association, Past Presidents, and Directors across the country support that competition by serving as judges, reading briefs, and coaching various law school teams. Our thanks to all of them.

And then finally in London, just this last month, President Clyne attended IMO Legal Committee meetings as part of the U.S. delegation. One of the timely topics there considered was the Mediterranean Sea migrant crisis.

Looking ahead to a year from now, here in New York City, May 3rd to 6th, 2016, the MLA will be hosting a meeting of the *Comité Maritime International*, the CMI. We are looking forward to a full collaboration of both groups at that time, both socially and substantively, integrating as much as possible the Working Groups of the CMI as appropriate with MLA Committee Meetings.

It's been said before, but it bears repeating, that the Officers and Board consider the work of the MLA committees to be the heart and soul of The Maritime Law Association of the United States. This CMI meeting next year is going to showcase the great work of our committees and the excellent efforts they make in advancing maritime law.

Thank you.

PRESIDENT CLYNE: Can I have a motion on the report?

MEMBER: So moved.

PRESIDENT CLYNE: Second?

MEMBER: Second.

PRESIDENT CLYNE: All in favor?

MEMBERS: Aye.

PRESIDENT CLYNE: Thank you, David.

Our MLA archives, we have some real treasures and we're very anxious to make these accessible to all of our Members.

With that, I will ask for the Treasurer's Report, Bob Connor.

MR. CONNOR: Good morning, everyone. Welcome to New York City and a bright, sunny day, just like we always have for MLA meetings. So let's keep our fingers crossed it stays this way.

I'm happy to report that the treasury is solvent and sound. Our dues increase helped our cash flow position. As you know this year, we've had extraordinary expenses in getting the website up and running. We've printed a *Directory*, which you all should have received, which is always a hit every other year on our expenses.

On the website, it's not up and running yet as far as the financial part. We had to hold back a little bit on that. But soon when you go on your dashboard, there will be an icon and a phrase of sorts that will let you know whether you have paid your dues or whether you fall into the "delinquent deadbeat category." So it will be right up front for those of you who get our e-mails and forget about them. It is important, and this is a good way to remind you.

Also, when the system is fully up and running, just like your bank credit card statements, you will be getting a bill every month. So pay them in January. It's much better for all of us.

Finally, there is still a large group, approximately 25 percent of the Members, who have not paid their dues for this year yet. We have sent out the third set of reminder invoices. So if you get one, please pay it. I know it's very easy to throw it in the inbox or the outbox or the 20-year file, but send it down to accounting, and I'm sure they'll be happy to send a check to us. It's only fair to your fellow Members that everybody pays their dues timely.

With that Mr. President, as I said, we're in sound financial shape moving forward. This evening's dinner has a good-size crowd. And there may even be a little profit in the event.

So thank you. And that's my report.

PRESIDENT CLYNE: Do I have a motion to approve the Treasurer's Report?

MEMBER: So moved.

PRESIDENT CLYNE: Second?

MEMBER: Second.

PRESIDENT CLYNE: All in favor?

MEMBERS: Aye.

PRESIDENT CLYNE: All opposed? Thank you.

Membership Secretary's Report, Barbara Holland.

MS. HOLLAND: Good morning, Mr. President, Members of the Association. Thank you all for being here and for your amazing support in recruiting efforts. I'm happy to report that we

do have a lot of new Members. Since we met in October, we have over 50 new Members. A lot of that is due to your efforts.

I want to thank you for your patience with the new online application process. We are still working through it. We will be clarifying and revising the by-laws, so that all of you can look there for the procedures and the way that it's now going to work with the application process.

But all in all, I think it is working out to be much more efficient and easy for people to find. And we do see that people are coming on the website to see how to join the MLA. They look at it, they see the benefits, and we are seeing a great deal of interest. So that is gratifying. We have, at this point, 2,797 Members.

During the period since our October meeting, we have 15 new Proctors. I'm very gratified to report that. And to recognize their achievements, I'd like to read their names. We have -- and forgive me, by the way if I butcher the pronunciation of the last name:

Todd Baiad

Samuel Blatchley

Dane Bruun

Seth Buskirk

Blythe Daly

Robert Gardana

Patrick Leahy

Bradley Mozée

18753

Pamela Palmer

Ryan Puttick

Ivan Rodriguez

Robert Stefani

Timothy Steigelman

Christopher Storm and

Rahul Wanchu.

So if we could just have a round of applause to recognize their achievements.

(Applause)

MS. HOLLAND: I'm sad to report the deaths of six of our Members, and I would like to read those as well and then recognize them with a moment of silence. They are

Judge Harold Baer, Jr., of New York

John Chamberlain of Woodbury, Connecticut

Past President William R. Dorsey, III, of Baltimore

Gerald Gaudet of Lafayette, Louisiana

John Lacy of Honolulu and

James Sentner of Houston.

If we could have a moment of silence.

And with that, Mr. President, I conclude my report.

PRESIDENT CLYNE: May I have a motion?

MEMBER: I move.

MEMBER: Second.

PRESIDENT CLYNE: All in favor?

MEMBERS: Aye.

PRESIDENT CLYNE: Thank you. Can I ask that the door be closed over there, please. Thank you.

Okay. I'd like to introduce some of our guests today. First of all, from the Coast Guard, we have Rear Admiral Steven Poulin, Judge Advocate General and Chief Counsel for the Coast Guard; Captain P.J. McGuire, Chief of the Office of Maritime International Law; we have Walter Brudzinski, Chief Administrative Law Judge for the Coast Guard; we have Commander Jason Krajewski; and Lieutenant Lars Okmark, who is Admiral Poulin's aide. Also with us, I think, today is Bronwyn Douglass, Senior Attorney for the Maritime and International Law Division of the Coast Guard. Is Bronwyn here? No? Oh, well.

We also are very honored to have retired Admiral Fred Kenney, Director of Legal Affairs for the IMO; John Hare, Secretary General of the CMI -- and John is going to talk to us a little bit about CMI 2016 and the CMI, in general -- coming up in just a little bit; Steve Rible, Chairman of The Association of Average Adjusters of the United States and Canada; John O'Connor, President of the Canadian Maritime Law Association. John is finishing up his term in June and has been a great friend of this Association.

I had sent an e-mail blast about the William Tetley Memorial Symposium. It's going to be on June 19th in Montreal. If anybody is interested in attending, I'm sure that John can give you some more information. As you know, Bill Tetley was a great friend of this Association. And having been a former Treasurer, I had a special relationship with Bill, who was always good for a couple of MLA bow ties. We miss Bill at these meetings.

We also have with us Luiz Roberto Leven Siano, President of the *Instituto Iberoamericano de Derecho Maritimo*.

(Applause)

I tried. The IIDM. I just want to say that Bob Parrish and Bill Graffam, Past President of the IIDM, did a great job of bringing our two Associations closer together. We have, I think, six or seven IIDM members with us at the meetings this week and we're very happy to have you.

Dr. Dieter Schwampe, who has become a regular at these meetings, President of the German Maritime Law Association. Dieter, where are you? He's in the back.

And Soren Larsen, Deputy Secretary General at BIMCO. He's in back.

If I forgot anybody, I apologize.

I would like to now ask that Admiral Poulin come up to the podium and say a few words.

ADMIRAL POULIN: Thank you, Mr. President. And good morning to everybody. Good morning to the Board and Members of the Association.

Let me just first start by simply reaffirming my deep appreciation to the MLA for the enduring partnership that we

have. Perhaps there is no better evidence of that partnership than the number of Coast Guard blue suiters that you see in the room this morning. And I think it's further evidence of that enduring partnership that Vice Admiral Chuck Michel, who is a long-time friend of the MLA, will be at the dinner tonight, and I hope you all get a chance to talk to him, meet with him. Of course, we are proud to claim him as a Judge Advocate in the Coast Guard, even though he's been elevated to a lofty position.

And I think it's also notable that Admiral Fred Kenney is here. And I know he's here in his role as the Director of Legal Services in the Legal Division over at IMO, but, trust me, I know Fred well, and I know the affinity that he has for the MLA is rooted in his service as a Coast Guard Judge Advocate, especially his time as the Fifth Judge Advocate General of the U.S. Coast Guard. So, Fred, welcome to you and it's good to see you again. And I heard Bob Clyne say Retired Admiral. Well, that's technically true. But, trust me, I've had a chance to work with Fred and there's -- retirement just doesn't make sense with his position at IMO. He's busier now than I think I've ever seen him.

Let me just mention a few other people if I could very briefly. Bob mentioned that my aide is here, Lars Okmark. Lars is a newly minted direct commission lawyer in the Coast Guard. He works in our Office of Military Justice, but he has a collateral duty as my aide, because flag officers need direction and they need care and feeding, and Lars gets that distinction. But the downside is you really never get to travel. You get to do all of the prep work, you get to set up all of the briefings, but you don't get to travel.

And I told Lars -- I said, Lars, you're going to go to New York. You're going to go to New York with me because I want you to meet the MLA. I want you to meet our partners, and I want you to enjoy the enduring relationship we have with the MLA, because I think it's important. As we indoctrinate new attorneys into the Coast Guard, it's important that they understand the relationship that we have with the MLA. So I ask you either after the meeting

today or tonight at the dinner, reach out a welcoming hand to Lars and make him feel warm here with the MLA.

And I would also like to just mention Jason Krajewski briefly. Despite my efforts -- I've tried to put the franchise tag on Jason so that he wouldn't be drafted -- but Jason is going to retire. Jason, I'm sorry if I'm embarrassing you here. But I have the distinction and privilege of presiding over his retirement ceremony in a couple of weeks, and I just want to publicly recognize you, Jason. Thank you for your service. I'll have more to say to you in a couple of weeks, but I think I would be remiss if I didn't thank you here publicly.

(Applause)

ADMIRAL POULIN: If I could, let me just take one or two minutes to talk about our views on federal preemption. I know it's an issue that has been discussed at different committee meetings. There have been a lot of issues discussed, and I know probably the chairs of the committees will report out on those discussions.

But one of the things that I've heard frequently from the membership is where are we going on federal preemption, especially with the federal preemption of rulemaking that we published about a year ago.

The truth of the matter is I haven't made up my mind on the direction that we're going, but that doesn't mean that we're no less committed to ensuring uniformity and predictability in maritime standards. In fact, perhaps even more so. We got a number of comments on our notice of proposed rulemaking on federal preemption. We are closely examining those. I can tell you that we got comments from a cross-section of America, states, local governments, Indian tribes, industry, environmental organizations.

I think there is a general misunderstanding of what we were trying to do with the NPRM, and that was simply to put people on notice how we are going to analyze issues of federal preemption from the Coast Guard perspective. I think some mistook our NPRM as indicating that we were going to launch a bold campaign to preempt state law. That is absolutely not the case. But I take note of those comments, and we need to go back and think through that.

There are other very important subsequent comments about how we had structured the rule making, and so we need to take stock of that as well, that is to say that we're going to carefully look at those, we're going to carefully deliberate. There are a lot of legitimate concerns both, I would say for and against what we're trying to do, and I'm going to be smart about the next step. That's the only level of commitment I can make to you, is that we're going to be smart about it and we're going to look carefully. But I can also give you my commitment that in the appropriate circumstances, we do continue to work with states and other local governments when issues of federal preemption do surface. And we are going to be good sentinels because we understand the importance to ensure the facilitation of maritime commerce and consistency of maritime law.

So with that, I'd be happy to talk to you offline about any issues that came up. Again, Bob, thanks for letting me take the podium just for a few minutes. And thank you all for your time and attention.

(Applause)

PRESIDENT CLYNE: Thank you, Admiral.

And now we are going to have a special presentation by Leven Siano of the IIDM. Come up to the podium.

MR. SIANO: Good morning, ladies and gentlemen.

The highest honor the IIDM can provide is the Certificate of Honorary Membership. And I proposed it and it was accepted by other members unanimously to give you this certificate to the MLA and Board and Past President for having opened the door of the MLA for the Iberoamerican Maritime Law Institute lawyers and initiate that very strong cooperation with us. We had our Congress last year with your President Bob Clyne, Past President Bob Parrish, Rear Admiral Steve Poulin, Admiral Fred Kenney, Charles De Leo, Jack Vayda. And I would like to read the Certificate:

The Iberoamerican Institute of Maritime Law hereby presents to Robert B. Parrish, this Certificate of Honorary Membership in gratitude for his contribution to the development of the IIDM in support of its projects. New York, May 1st, 2015. Luiz Roberto Leven Siano, President.

(Applause)

MR. SIANO: Thank you, Mr. President. Thank you very much. Thank you for your cooperation.

PRESIDENT CLYNE: Thank you, Leven. And congratulations, Bob.

As you've heard in the Membership Secretary's Report, we lost a number of Members, which is always a very sad thing. We lost a titan several months ago. As most of you know, Bill Dorsey was not only a Dean of the Admiralty Bar, but he was one of the great Presidents, one that I model some of the things that I do after.

As you know, he was President during the dark phase of 9/11, and there was nobody in this Association who was more

supportive of the Members who were affected by 9/11 than Bill Dorsey. We're going to tremendously miss him.

And we are very, very honored to have with us today Bill's wife, Anne Dorsey, and his daughter Becca. I would ask you if you could please stand up.

(Applause)

PRESIDENT CLYNE: I have asked Jim Bartlett to say a few words. Jim, if you could approach the microphone. Thank you.

MR. BARTLETT: Bill Dorsey, along with Dave Owen, was my mentor. But he was more than that. He was my colleague and my friend. Many of you were his friends as well. Last night I had the pleasure of joining Anne and many of those friends at dinner. And it was a great dinner. I heard stories of the many good times that Bill and Anne and the McCormacks and the O'Keefes and Lucases and the Hardys and the Berkleys and the LeBlancs and Healys had at the New York meetings, as well as the away meetings.

Bill began his legal career with Semmes, Bowen & Semmes in Baltimore in 1962. He spent his entire career with our firm. He was our chairman for several years.

Bill was a huge Orioles fan. I can't show this to all of you, but this is Bill's baseball card – in 1990, he did Orioles Dream Week, and he was very proud of that.

As you all know, he was also very active in the MLA and dedicated to the MLA. He was on the Executive Committee – what the Board of Directors was called then. He was the Secretary, he was the Vice-President, and he was the President, the 42nd President from 2000 to 2002. And as Bob has already mentioned, he was the President in 2001 when 9/11 occurred. And little more

than a month later, we had our meeting at Del Coronado in San Diego, and Bill organized a special ceremony that opened with Betty Cohen singing three verses of “America the Beautiful.”

And then in his remarks, after noting the lives lost and affected by the tragedy, Bill said – and this is in *The MLA Report*, but I just want to read it here:

I know that for many of you it was not easy to attend this meeting, but I truly believe that just by being here, by seeing old friends and meeting new, by doing our business, by sharing a drink or a meal together, we thumb our nose at the terrorists and we help each other deal with the trauma of September 11th.

Bill will be remembered for his affability, his great skills as a litigator, and his dedication to friends and colleagues. I will miss him. I know we all will. Thank you.

(Applause)

PRESIDENT CLYNE: Thank you, Jim. Well done. In *The MLA Report* which is out on the table, there are some beautiful testimonials to Bill by Past Presidents, so I urge you to take a look at those. And there’s also one from Jack Lillis about Don Kennedy as well. So if you get a chance, please take a look at those.

Okay. We’re going to start with our standing committee reports now. And I will call on Leo Kailas, Arbitration and ADR, followed by Susan Dorgan, Carriage of Goods.

MR. KAILAS: Good morning everyone, and welcome to New York. I was struck by the fact that all of these Coast Guard people look like teenagers and they’re retiring, and I look around

this room, and we seem to be a little bit older and yet we're still at it.

In any event, the Arbitration and ADR Committee had a great year. And I want to thank my Vice-Chair, Peter Skoufalos and our new Secretary, Chris Nolan. Chris Nolan and Lindsay Sakal had a big role in doing our case notes, which were available at our meeting on Wednesday and they'll also be available on the website.

Our meeting was held last Wednesday at Seward & Kissel. It was a great discussion of recent amendments to the SMA arbitration rules in New York. These are rules that our Liaison Subcommittee of the Arbitration and ADR Committee has worked on with the SMA, and there have been recent changes to the consolidation rules in response to Supreme Court cases. We have certain discovery initiatives that are being adopted by the SMA. And, of course, about ten years ago the SMA adopted the rule that permits the award of legal fees to the prevailing party in SMA arbitrations. The Liaison Subcommittee continues to work with the SMA and also with BIMCO on various initiatives.

We had a very interesting discussion on apportionment in safe berth/safe port cases. There is a recent SMA decision that permitted or that adopted an apportionment rule in a safe berth/safe port case, and it's generated a lot of discussion in the bar. And Jay Paré presented the position against apportionment and Don Murnane presented the position in favor of apportionment, and I doubt this will be the last time we hear about that issue in discussions.

This afternoon, several of our members are participating in the mock arbitration CLE, which is open to all MLA and SMA members. And I gather that it's a sold-out event, although, you know, my view is if you want to try to sneak in, please do. It's three CLE credits and in addition will be very entertaining. Don Murnane and Keith Heard have worked very hard on this with

Clay Maitland and Carleen Lyden-Kluss. It's going to be a really spectacular program.

The other thing that's coming up is ICMA. Several of our Committee Members, Don Murnane, Manfred Arnold, John Kimball, and a bunch of other of our Members are presenting papers at the ICMA conference in Hong Kong. We're also working with the SMA on the program that's going to be developed in the fall in Bermuda on an arbitration presentation, a discussion of hot topics in the arbitration field.

Again, thank you to my Vice-Chair and Secretary, and thank you to all of you.

PRESIDENT CLYNE: Thank you, Leo. Susan Dorgan followed by Cruise Lines and Passenger Ships, Carol Finklehoffe.

MS. DORGAN: Good morning, Mr. President, Officers, Members of the Board, my colleagues, and also our guests who are here today.

Yesterday the Carriage of Goods Committee met at Curtis Mallet's office. And I'd like to thank Liz again for the great hospitality and all of the assistance with the audio-visual, also the extra chairs that had to keep coming into our meeting because we had an overflow crowd.

We also had guest speakers. Sitting over here, we have Audrey and Eric Kravets, who gave a paper and a presentation on German law. Let me get the title correct. Was the German -- I have it here somewhere. Perhaps I lost it. But they gave a presentation on German law that covered two areas. First, a comparison of selected updated provisions of the *Handelsgesetzbuch*, which is referred to as the HGB thankfully, which is the commercial code in Germany, with corresponding concepts in the Rotterdam Rules. And the Maritime Code can be found in Book 5 in the *Handelsgesetzbuch*. Second, they also

gave their opinion regarding the future of the Rotterdam Rules in European academic and practitioner circles.

And I have to thank them. They were very frank and very honest with what the opinion is over there, and it led into a great segue when we had Chet give the latest status on the U.S. position with regard to the Rotterdam Rules. And I'll allow Chet to speak about that later, so there will be more details, and I won't go into it here.

We also had some commentary, because we had the pleasure and honor of John Hare attending our meeting, and he also brought to light some of the other regions in the world and what their opinion is with regard to the Rotterdam Rules. And John also made a little presentation about the CMI colloquium and also the assembly that will be taking place in Istanbul in June and also the meeting next year, which, again, I'll leave you to describe more fully.

Our meeting continued, and we talked about electronic documentation and also cybersecurity risks in the maritime world, which is starting to get some attention, and I think right now we should consider -- and I raise this to you, Mr. President -- whether there should be a committee or an exploratory committee with regard to cybersecurity and maritime issues.

Last year in June, there was a conference in London that discussed whether the vessel owner doesn't have proper cybersecurity procedures in place and cargo sustains damage, did the shipowner use proper due diligence to make the vessel seaworthy?

We're going to see more and more of these issues with hacking. I see it in my business because I oversee the financial lines, and we've been involved with the Home Depot and the Target breaches and all of the others. And it's going to impact us in the marine world, whether or not somebody decides to switch

around a stow plan or someone decides to take a cruise ship and heel it over all because someone has a joystick and they can get into the software systems. So I think it's something where we should be ahead of the game rather than waiting for something to happen.

We'd also like to have a Subcommittee of Carriage of Goods that deals with electronic transportation documentation. If you look at the Rotterdam Rules, which we all hope will be coming into effect, there is a separate chapter that deals with that. And at this point, we should be looking into who's using it, are people having problems with electronic bills, how is their integrity being protected? I think we need to put a little meat on that, and we should look into those issues.

We've learned that over in Germany, they really like paper. As a matter of fact, I can tell you that the courts are really having a fascination with fax machines. And not just any paper, but it must be thermal paper if you're going to get along well with the courts in Germany. So I think we should be looking at electronic documentation and see how welcome it is in different regions and what we can do here to make sure they're secure so that people will want to use them.

We had approximately 55 people attend in person. We had approximately six people who attended over the phone. It was a CLE meeting, and I want to thank Dennis Cammarano who arranged for our speakers and also for ensuring that we did have CLE credit for the paper. We also had our Young Lawyer -- I don't know if he's here now -- Imran Shaukat, who was very helpful in putting everything together. And I believe he tried to get the Young Lawyers together with the CMI Young Lawyers and perhaps look into electronic documentation and our cybersecurity committee.

Thank you. Thank you all.

(Applause)

PRESIDENT CLYNE: Thank you, Susan. The issue of cybersecurity is huge. I think it's a great idea. We'll look at it going forward.

Carol Finklehoffe followed by Fisheries, Mark Coberly. Is Carol here?

MS. FINKLEHOFFE: Good morning. We had the Cruise Line and Passenger Ship Committee meeting on Wednesday at Freehill Hogan. We had very good attendance, and I'm happy to announce that the Committee numbers have been growing. We had a 25 percent increase in Members attending.

This year we had several great speakers presenting on various issues that are up and coming. First I'd like to thank Andrew Waks and Philip Parrish speaking on *Franza v. Royal Caribbean*,¹ which dealt with vicarious liability for cruise ships' medical staff in medical malpractice claims, a decision that just came out in November of 2014.

We had Curtis Mase speak on the impact of the Cruise Vessel Security Safety Act on prosecuting and defending sexual assault claims, and specifically focusing on the fact that the act requires surveillance and CCTV cameras on cruise ship vessels and what implications that has when a sexual assault does happen and the new regulations coming out with that.

We also had Professor Martin Davies from Tulane Law talk about arbitration, venue, and applicable law as it relates to crew claims and crew member claims against their employers.

There is a newsletter published that has a case law update of all of the recent cases that have come out which is posted to the website, and all of the presenters' papers are also being presented on the website.

¹ 772 F.3d 1225, 2014 AMC 2710 (11th Cir. 2014).

Thank you.

PRESIDENT CLYNE: Thank you, Carol.

(Applause)

PRESIDENT CLYNE: I just wanted to mention that we have another guest with us today, Federal Judge Mark Davis from the U.S. District Court of the Eastern District of Virginia. He was a Healy lecturer last night, and we're very happy to have him with us today.

I also believe that – is Thomas Schoenbaum here? He was also a Healy lecturer along with LeRoy Lambert. He said he was going to be here this morning, but I'm having trouble locating him. All three speakers were really terrific last night.

Mark, followed by Buckley McAllister, Inland Waters and Towing.

MR. COBERLY: Thank you, Mr. President. Officers, special guests, colleagues, and Members, I wish to present the report of the Fisheries Committee.

The Fisheries Committee met yesterday, April 30, 2015, at the offices of Reed Smith, and we wish to thanks Lars Forsberg and Reed Smith for their hospitality and hard work.

The meeting was attended by about 20 MLA Members and special guests, four of whom were attending by phone.

We had the pleasure of a special guest speaker from NOAA to address a very timely topic. Sam Rauch, the Deputy Assistant Administrator of Regulatory Programs for National Marine Fisheries Service made a presentation on a new Presidential Action Plan that was just published on March 15th. This Action Plan was the work of the Presidential Task Force on combating illegal,

unreported, and unregulated fishing and seafood fraud. This initiative addresses illegal catches made by foreign vessels, but also seafood fraud in terms of what's being delivered to grocery stores and to your restaurants. To put this in perspective, the next time you have a desire to have Asian catfish, you might be able to select it by picking grouper on the menu. There will be rulemaking on this action plan over the next 12 to 18 months, and if you have clients who have an interest, then you might want to watch for this.

That was followed by the Coast Guard's perspective on its role in this particular initiative, and that was presented by Commander Jason Krajewski, whom you've heard about. He's with the International Law Office of USCG HQ, and is the Coast Guard liaison to our Committee.

Thereafter, there were comments from another special guest, U.S. Coast Guard Administrative Law Judge Walter Brudzinski, who attended our Committee meeting. I want to extend my particular thanks to him for joining us.

Following that, former Committee Chair Steve Johnson brought up House Bill 337, the Maritime Lien Reform Act, which would place limitations on maritime liens on fishing permits. He reported this house bill has now been folded into HR 1987, the Coast Guard Authorization Act, and that may substantially increase the likelihood of its passage.

There followed a discussion of a series of criminal felony prosecutions related to striped bass fishing, which was presented by Trey Kelleter, a criminal law specialist.

And finally, the Fisheries Committee recent case law summary was presented by Vice-Chair Terry Kenneally with assistance from our Young Lawyer liaison, Kirby Aarsheim. Included in that discussion was an analysis of the recent Supreme Court decision, *Yates v. U.S.*², in which the prosecution for fishing

² 135 S.Ct. 1074, 2015 AMC 626 (2015)

violations took place under a novel use of the Sarbanes-Oxley Act instead of the Lacey Act. The case law summary is available on the MLA website for those who may want it.

Mr. President, that concludes my report.

PRESIDENT CLYNE: Thank you, Mark.

And Buckley McAllister followed by International Organizations, Conventions, and Standards, Phil Buhler.

MR. McALLISTER: Thank you. The Inland Waters and Towing Committee meeting was attended by 28 people in person and four by telephone.

The first speaker was Committee Vice-Chair Kent Roberts, who discussed discoverability of safety management system documentation. He reviewed one line of cases where even if investigations were done at the direction of an attorney, they were found discoverable if they were ordinary business documents or generated as part of standard operating procedures.³ He also reviewed another line of cases which found that even if just one of the significant purposes of a report is to provide legal advice, then the documentation is protected from discovery.⁴

David Boyajian gave a presentation on the impact of marijuana legalization on the maritime industry. He reviewed a number of different cases where, for instance, post-accident testing is being invoked to raise *The Pennsylvania* Rule. He also reviewed some cases involving wrongful termination cases arising out of random and post-accident testing.

Our Young Lawyers liaison, Alessandra Tebaldi gave a presentation on two recent cases raising the preeminence of federal

³ *Hooke v. Foss Maritime Co.*, 2015 AMC 400 (N.D. Cal. 2014).

⁴ *In re Kellogg Brown & Root, Inc.*, 756 F.3d 754 (D.C. Cir. 2014), cert. denied sub nom. *U.S. ex rel. Barko v. Kellogg Brown & Root, Inc.*, 135 S.Ct. 1163 (2015).

maritime law. One of those cases, *Coffin v. Blessey*,⁵ upheld the seamen's exemption from state wage and hour claims. The second case was *Portland Pipeline Company v. City of South Portland*,⁶ challenging a municipal ordinance that is seeking to block the loading of crude oil on tankers in Portland, Maine.

We also discussed compliance issues raised in transporting hydrofracking-produced water by barge on American waterways.

On behalf of the Subcommittee of the Great Lakes, Tom Baker reviewed various ballast water regulations that are being implemented on the Great Lakes, particularly coming out of Canada where some stronger regulation of ballast water is developing. All of these materials are posted on the website.

Thank you very much, Mr. President.

PRESIDENT CLYNE: Thank you.

(Applause)

PRESIDENT CLYNE: Phillip Buhler followed by Marine Ecology and Maritime Criminal Law, Sean Houseal.

MR. BUHLER: Thank you, Mr. President, Members of the Association. The International Organizations, Conventions, and Standards Committee met on Wednesday, April 29th, at the magnificent conference room of Shipowners Claims Bureau overlooking New York Harbor.

We give many thanks to our Secretary Boriana Farrar and George Tsimis, both of Shipowners Claims Bureau, who arranged the venue and the hosting.

⁵ *Coffin v. Blessey Marine Services, Inc.*, 771 F.3d 276, 2015 AMC 99 (5th Cir. 2014).

⁶ No. 15-00054 (D. Me. 2015).

The Committee held a three-hour CLE program entitled “Recent Developments in Criminal Law and Enforcement Affecting International Maritime Transportation.”

Our first speaker was Greg Linsin of Blank Rome in Washington. He gave an overview of international criminal enforcement of safety and environmental laws. This included review and analysis of cases from a number of national jurisdictions including Australia, New Zealand, the U.K., Korea, France, and elsewhere based upon MARPOL. He also reviewed marine casualties in the U.S., Canada, and Korea involving fatalities.

Our next speaker was Professor Martin Davies of Tulane University. His presentation was international law aspects of criminal prosecutions of port state control authorities. He included a fundamental background of port state jurisdiction and international law, its basis in UNCLOS, and recent court interpretations in several national jurisdictions.

Our next speaker was Dr. Leven Siano of Siano & Martins Advogados in Rio de Janeiro, Brazil. His presentation was recent criminal enforcement actions in Brazil. It included a very interesting comparison of actions brought under the Brazilian Environmental Act for spills and cases involving various types of prosecutions for such infringements as imprisoning crew, throwing stowaways overboard, and causing deaths in vessel explosions.

The next speaker was Barry Hartman of K&L Gates in Washington. He presented the new MARPOL Annex 6 regulations, requirements, issues, and challenges. This included an extensive review of the new rules for low sulfur fuel requirements, waivers, compliance, and consequences for noncompliance. He also discussed a comparison of U.S. Coast Guard and EPA enforcement of those new rules.

Finally, Mr. George Tsimis, Claims Director and General Counsel of Shipowners Claims Bureau, gave a presentation on the impact and enforcement of U.S. sanctions from a P&I perspective. His emphasis was on compliance and enforcement of the Iran Sanctions and their effect on maritime business.

All of the PowerPoints, supporting documents, and biographies of the speakers are posted on the IOCS web page. I want to give special thanks to John Kimball and Boriana Farrar for helping to arrange some of these speakers. I'd also like to give special recognition to our Young Lawyers representative, Jessica Martyn, who did a yeoman's job of working to obtain the CLE approval for this program.

After the CLE program, John Hare, Secretary General of CMI, along with Vincent Foley, our Vice-Chair, and John Kimball, our CMI Subcommittee Chair, gave updates on plans for the joint CMI/MLA meeting in New York in 2016 and also the upcoming CMI colloquium in Istanbul in June. Further details are on our web page.

Thank you, Mr. President.

(Applause)

PRESIDENT CLYNE: Thank you, Phil. Marine Ecology? Is Sean Houseal here? We'll skip that one.

Marine Financing and Maritime Bankruptcy. We're going to kill two birds with one stone here. So John Bradley is going to do the report. They seem to go together.

MR. BRADLEY: Good morning, Mr. President. Thank you for taking us out of turn.

On Wednesday, April 29th, the Marine Financing Committee and the Committee on Maritime Bankruptcy and

Insolvency held a joint meeting of their Members at the offices of Vedder Price. Our good friend and colleague, Margie Krumholz, is the Chairperson of the Marine Financing Committee. Since she could not be here this morning, I'm delivering this report on behalf of both Committees.

Let me start by saying that when the Maritime Bankruptcy and Insolvency Committee was formed as an independent standing committee in 2012, we had approximately 30 members. We now have over 50 members, and for good reason. In the last five years, with continuing financial distress throughout many segments of the industry, literally dozens of cases have been commenced by shipping firms under Chapters 11 and 15 of the United States Bankruptcy Code. Many of these cases involved foreign debtors with almost no contacts to the United States. These foreign shipping debtors are invariably drawn to the United States to avail themselves of the unique benefits and protections that only U.S. bankruptcy courts and laws can provide.

In almost every shipping bankruptcy case with which I am aware, including the current bankruptcy involving *O.W. Bunker*⁷ -- U.S. maritime lawyers have had key litigation and transactional roles to play. And the increasing role of maritime lawyers in shipping insolvencies explains the growing interest in our Committee by MLA Members.

Now, to our meeting on Wednesday.

The meeting featured a one-hour CLE program entitled "Amendments to the Uniform Fraudulent Transfer Act: A Guide for Maritime Lawyers." The program was presented by Ed Smith, a partner with Morgan Lewis, who was a member of the drafting committee on amendments to the Uniform Voidable Transfer Act, appointed by the National Conference of Commissioners on Uniform State Laws. These amendments are coming to a state

⁷ *In re O.W. Bunker Holding North America, Inc.*, Case No. 14-51720 (AHWS) (Bankr. D. Conn. filed Nov. 13, 2014).

near you. If anyone would like a copy of Ed's materials, you can find them on our Committee website page.

Steve Johnson, Chair of the Subcommittee on Coast Guard Documentation, U.S. Citizenship, & Related Matters, reported on the progress of the Part 67 Working Group. I should mention that the MLA submitted a petition for rulemaking to the Coast Guard in October 2013, requesting the Coast Guard to amend 46 CFR Part 67 to update the regulations concerning vessel documentation and recordation of instruments, including preferred ship mortgages. The Coast Guard accepted this petition, and we heard last week that the rulemaking has now been approved by the Coast Guard for addition to its list of regulatory projects. The Working Group has drafted some additional changes to add regulations regarding the citizenship of entities, such as employee benefit plans, mutual funds, and non-stock corporations, that are not covered by the existing regulations. The Working Group has also drafted a proposal for an addition to the regulations regarding a process to make the Coast Guard's determinations regarding citizenship public. It is expected that the Marine Financing Committee will vote on these proposals at the Fall Meeting.

David Bohannon and Bob Toney, Chairs of the Yacht Financing Subcommittee, gave their report on the state of this industry, which included a presentation from Lisa Verbit of U.S. Trust/Bank of America.

My colleague and good friend, Frank Nolan, next spoke about the initiation of a CMI project regarding the definition of a "vessel." Greg Chase of Reed Smith will be Frank's liaison to the Marine Financing Committee on this project.

Allen Black told us about another CMI project regarding the study of an international Cape Town protocol for security interests in vessels similar to the Cape Town protocol regarding aircraft. Allen will serve as the MLA representative on this committee.

Warren Gluck of the Bankruptcy Committee gave us an excellent presentation on cross-border insolvency cases that have impacted the shipping landscape this year. Of particular interest is the ongoing *Daebo International Shipping*⁸ Chapter 15 case, which has tapped into numerous issues of interest to the maritime bar, including the ability of a bankruptcy court to vacate a maritime attachment under the provisional release sections of Chapter 15. A copy of Warren's presentation has been posted to the Committee's website page.

On the subject of Chapter 15, I should mention that an ongoing project of the Bankruptcy Committee has been the preparation and updating of a case locator for Chapter 15 shipping cases. This document lists the 22+ Chapter 15 shipping cases that have been filed in the United States since the adoption of Chapter 15 by Congress in 2005. Among other things, the locator shows the name of the case, the court where it was filed, the filing date, the judge assigned to the case, the country where the foreign proceeding was filed, and the status of the Chapter 15 proceeding (*i.e.*, whether foreign recognition was granted and on what grounds). The updated document was handed out at Wednesday's meeting and is an excellent tool for anyone who is involved with Chapter 15 cases. If it hasn't been posted already, it should be on the Committee website page in the next few days.

Mike Frevola, Chair of the Marine Financing Committee's Subcommittee on Maritime Liens and Mortgages and presenter on behalf of the Bankruptcy Committee, led an animated discussion on the *O.W. Bunker* bankruptcy and the maritime litigation that it has spawned. The *O.W. Bunker* case is one of the most difficult and legally convoluted cases to come out in quite some time, with fascinating issues involving maritime and bankruptcy jurisdiction, maritime lien rights, lien priorities, and conflicts between maritime practice and procedure and the use of interpleader.

⁸ *In re Daebo International Shipping Co.*, Case No. 15-10616 (MEW) (Bankr. S.D.N.Y. filed Mar. 16, 2015).

Charlie Papavizas presented on recent rulings from U.S. Customs and Border Protection regarding the applicability of the Jones Act to fuel blending outside of the United States.

Margie Krumholz updated the group on the progress of the BIMCO forms project to develop a standard term sheet for ship financing transactions. BIMCO reports that it hopes to have an approved form by June 2016.

Mr. President, that concludes our report for the Marine Financing Committee and the Committee on Maritime Bankruptcy and Insolvency. In closing, I would like to publicly acknowledge and thank the Bankruptcy Committee Vice-Chair, Larry Rutkowski of Seward & Kissel, and the Committee Secretary, Kevin Walters of Chaffe McCall, whose continuing assistance and support are very much appreciated by me and the other Members of our Committee.

(Applause)

PRESIDENT CLYNE: Next is Marine Insurance and General Average, Andrew Wilson, followed by Marine Torts, Charlie De Leo.

MR. WILSON: Thank you, Mr. President.

The Marine Insurance and General Average Committee met on Wednesday at the offices of Seward & Kissel. We greatly appreciate their hospitality and the arrangements made by Bruce Paulsen. We had 63 members in attendance and additional attendance on the phone. It was a full agenda that covered multiple topics.

Julia Moore, who edits our newsletter, led off with a presentation of the newsletter. She focused on a number of *uberrimae fidei* cases which continues to dominate insurance case law at present. She is going to prepare a chart that will compare and contrast the different holdings in various circuits.

At present, the Fifth Circuit continues to be an outlier as far as treating *uberrimae fidei* as an entrenched federal doctrine. So we continue to watch that. I guess we're all thinking that the Fifth Circuit will come around, but so far not so.

A couple of the other cases dealt with cargo and choice of law issues. And she also had an interesting hull case involving the Yacht CAN DO, which as Julia pointed out, apparently could not and sunk at her dock. Nevertheless the court found coverage due to ambiguous and conflicting clauses in the policy, but the case is also a reminder that we should all think twice when we choose a name for our yacht.

Then, John Woods, who heads our Hull and P&I Subcommittee, talked about the AIMU efforts to basically work in the old hull clauses into existing AIMU forms.

Next up we had Dieter Schwampe from Hamburg, who talked about a licorice cargo case involving interpretation of sanctions clauses, and he also mentioned his involvement with CMI.

Then we had Jonathan Spencer, who is the former Chair of the Committee. He's an average adjuster. He reported on the ongoing revision of the York-Antwerp Rules, adjusting general average, in which he's involved as a U.S. representative of a CMI international working group constituted for that purpose.

The working group was formed at the 2013 CMI meeting in Dublin, and the intention is that a new set of rules will be available for adoption by the CMI general assembly scheduled to take place in New York in May next year at the conclusion of that organization's joint meeting with our Association.

Items under review include a possible revision of the rule relating to tug and tow situations, rules relating to crew wages allowable at a port of refuge, the treatment of salvage settlement,

and the mechanism by which the CMI determines from year-to-year the rate of interest allowable and general average sacrifices and expenditures.

Consideration is also being given to a series of guidance notes for use in conjunction with the York-Antwerp Rules, adjusting topics such as the role of average adjustors, the appointment of general average surveyors, the administration of cash deposits, and other matters relating to the administration of general average claims. All relevant working papers are available on the CMI website.

Next up, was David Walker of Houston to talk about the BP litigation involving Transocean and BP insurance whereby BP was attempting to claim additional insured status in a tower of policies that basically dealt with pollution that was -- I think the total amount of the tower is \$750 million and BP wanted to use that and gain access to it. The Fifth Circuit has certified two questions to the Texas Supreme Court which were answered. One dealt with whether the joint contract would be used to interpret the policy, and the court answered that in the affirmative, which then obviated consideration of the second question, which dealt with whether the doctrine of *contra proferentem* should apply.

Next up, we had John Miklus, who talked about new developments with AIMU, and then Rhys Clift from Hill Dickinson in London who talked about developments with the new English Insurance Act, which should go into effect in 2016. He said there will be a lot of changes in the law. And it's odd that the English law is going in the direction of favoring the insured whereas the American law based on old English law is favoring *uberrimae fidei*. And he also talked about how in adjusting risk, they would look for proportional remedies if there's a breach as long as the insured's efforts were not deliberate or reckless.

He also talked about a case involving the vessel BRILLANTE VIRTUOSO, which was attacked by pilots -- I'm sorry, pirates in --

MEMBER: You were right the first time.

MR. WILSON: Actually put an explosive device in the engine room and blew it up when the ship foundered. So there was a constructive total loss claim based upon Middle Eastern costs of repair. The case was -- achieved a lot of notoriety. It's presently in litigation, and there's been some allowance of some of the tug expenses for maintaining the vessel's position in the Gulf. But apparently the surveyor, the investigating surveyor who was involved, had been attempting to determine what the cause of the loss was and came up with a theory that a gang had planned the whole thing, and his vehicle was promptly blown up, and he was killed. So kind of a strange series of events.

Our final speaker was Sean Dalton of Munich Re, and he covered the full waterfront as far as all the different types of risks and developments that exist in the insurance world.

Mr. President, that concludes my report.

PRESIDENT CLYNE: Thank you, Andy.

Charles De Leo, followed by Offshore Industries, David Walker.

MR. De LEO: Good morning Mr. President, Members and guests.

Marine Torts and Casualties met Wednesday afternoon at the office of Clyde & Co. and we wish to thank John Woods for his kind hospitality. We had well over 80 Members and guests which was quite a good attendance.

We tried to emphasize at this meeting the casualties part of our mandate and we had two excellent panels. The first was on casualty response and investigations. Our first speaker was Andreas Brachel from Gard who gave the insurers' and P&I perspective in

terms of appointment of responders and coordination with experts, correspondents, lawyers and the authorities and the various issues that they encounter both in the U.S. and internationally and various issues on privilege. We then had Greg Challenger and Gary Mauseth from Polaris who provided the experts' perspective and also coordination and the expectations of the authorities in the NRDA process and related issues. To complement that, we then had two lawyers, Joe Walsh from Clyde & Co in Long Beach and Gene O'Connor from New York, on the legal aspects, particularly from the U.S. perspective.

Following the first panel we had two lawyers from Venezuela, Aurelio Fernandez-Concheso and Jose Sabatino, both of whom are also members of the IIDM and they gave us the perspective primarily from Venezuela. They explained the jurisdiction of their specialized maritime court and also outlined some of the realistic aspects dealing in the current economic and political environments there, which provided quite an interesting perspective.

Following the second panel we had an update by Becky Hamra who is also our Young Lawyers liaison and who is with Charles Taylor. Becky gave us a very timely update on the Nairobi Wreck Removal Convention. Though it's not likely to be ratified by the United States, it is certainly something that we thought the Members should be aware of. She detailed the states that had ratified certain parts of the Convention and how it would still affect owners and other responders even outside of the states that are parties.

Since we are also the Torts Committee, we finally also had an update on some recent cases. We had Phil Parrish and Andy Waks address us on the trends of vicarious liability and then we had an update by my colleague Ryon Little on the *Meche v. Doucet*⁹ case on *McCorpen*¹⁰ defenses.

⁹ 777 F.3d 237, 2015 AMC 305 (5th Cir.), *cert. denied*, 136 S.Ct. 111 (2015).

¹⁰ *McCorpen v. Central Gulf S.S. Corp.*, 396 F.2d 547, 1968 AMC 1147 (5th Cir.), *cert. denied*, 393 U.S. 894 (1968).

That concluded the meeting. It was quite a lot for one meeting, but we got it done within the 90-minute time frame.

That concludes my report.

(Applause)

PRESIDENT CLYNE: Thank you, Charles.

David Walker followed by Practice and Procedure, Eddie Powers.

MR. WALKER: Thank you, Mr. President. Good morning, everyone.

The Offshore Industries Committee also met in Clyde & Co.'s offices on Wednesday afternoon. And many thanks to John Woods and his colleagues for the great facility and hospitality. Our attendance was 39 persons, 33 current or pending MLA Members and 6 friends.

We had a pretty full program. We had three presenters. Our first presenter was our Brazilian colleague and friend, Iwam Jaeger of the Kincaid law firm in Rio de Janeiro. He gave a presentation or an update, because he had presented to us last year, on the offshore sector in Brazil. He outlined the very serious challenges that Brazil faces in these times, but ended with, I hope, a very accurate and optimistic assessment that Brazil will come out of these times stronger and go forward very well in the future.

Our second presenter was Aaron Greenbaum, a partner in our Vice-Chair Sal Pusateri's law firm, from New Orleans. Aaron gave a presentation on the borrowed employee and independent contractor defenses in maritime personal injury litigation, sort of outlining the case law with an emphasis on the Fifth Circuit, and the ins and outs and tactics that one might want to use when faced with that kind of case.

Our third presenters were Bert Ray and John Cox of the Keesal law firm. They gave a very interesting and comprehensive presentation on the challenges and opportunities of drilling in the Arctic, including the regulatory environment.

So I think it was a very full meeting. And I hope the presentations were interesting and informative to those who attended. The presenters have all agreed to send me their presentations for posting on the MLA website, so we'll do that.

I want to also recognize our Secretary, Bill Riviere, for his help.

And lastly, just a shameless pitch. If you have a professional interest in or even an idle curiosity about offshore industry issues, we'd welcome your participation.

That concludes my report.

PRESIDENT CLYNE: Thank you, David.

Practice and Procedure. Eddie Powers has been the Chair for the last several years, and he is turning this Committee over to Gina Venezia. We're really grateful for the work Eddie has done on this important committee. Thank you.

MR. POWERS: Thank you, Mr. President.

The Practice and Procedure Committee met at the offices of Carter, Ledyard & Milburn on Wednesday, April 29th. As always, I thank them for their hospitality.

The Committee was treated to an informative one hour CLE program on real world challenges of maritime arrest, attachment, and judicial sales presented by our own Bob Toney of National Maritime Services and National Liquidators, a Committee Member for many years, as well as Stan Loosmore from Seattle,

Washington. Stan is a retired Coast Guard officer and a practicing attorney who is writing a book on this very subject.

I would like to thank Sam Blatchley for all the hard work that he did in coordinating and arranging the CLE credit.

We were also entertained by a lively presentation from Spencer Aronfeld of Coral Gables, Florida, on the use of social media from a plaintiff's perspective. I've been attending this Committee's meetings for 20 years, and this was the first time that I recall a plaintiff's personal injury attorney speaking before the Committee. It was very entertaining, and a bit sobering regarding the information that is actually out there.

Mr. Aronfeld explained how he uses this information during *voir dire* of jurors and examination of witnesses. He has also tracked down potential defendants by using Facebook or Twitter and any number of social media. As he explained, once the information is out there -- it's always out there and it's never going to go away. It was actually quite disturbing to find out what can be discovered of one's self on the internet. So make sure that you keep your social media clean, because the jurors are going to be looking at it, as well as the opposing counsel.

Finally Mike Frevola, Chair of the Joint Subcommittee on Maritime Liens, provided his usual learned update on recent case law on maritime lien cases.

I would like to thank the Association and the Committee for allowing me the privilege of serving as Chair for the last four years, and I look forward to Gina Venezia assuming the Chair at the meeting in Bermuda.

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

PRESIDENT CLYNE: Thank you, Eddie. I have a certificate for you.

(Applause)

PRESIDENT CLYNE: Recreational Boating, Lars Forsberg, followed by Regulation of Vessel Operations by Lawrence Kiern. Lars is also turning over the Chair. He's been Chair of this Committee since 2010. He has done an absolutely fabulous job. Anybody that has looked at their newsletter knows what a great product they put out. Their meeting is terrific every year. They always wonderful speakers. Thank you, Lars.

MR. FORSBERG: Thank you, Mr. President.

We had a lively discussion regarding a possible national system for standards on recreational boating. This is prompted by several safety concerns. I'm not sure how far this will go, but we were very fortunate to have Captain Patrick McGuire with us. As well, on the civilian side, we had John Muldoon, former President and Chairman of U.S. Sailing and Joanne Dorville and John Yontenski from the U.S. Naval Academy talking about what might be parameters for safety issues and standardized training around the United States. It would go in conjunction with the Coast Guard standards, and they're a partner in this whole process. I'm not sure, again, it will happen tomorrow, but we're hoping that we'll have a significant say going forward.

Bob Toney from National Maritime Services was very helpful in providing a market review of where the retail and wholesale markets are, and it's good news with the economy right now.

And then finally, as our Mr. President mentioned, *Boating Briefs*, which is our publication bringing us up on current developments, we were very fortunate to have Todd Lochner, who is the new Vice-Chair of the Committee, speak on recent developments. And we will post *Boating Briefs* for all of those who may have interest.

I'm very pleased to pass the gavel on to my good friend, Mark Buhler, who has been with the Committee since it started. We are in very good hands.

Thank you, Mr. President. That is my report.

(Applause)

PRESIDENT CLYNE: Thank you, Lars. We have a certificate for you.

Larry Kiern followed by Salvage, Jason Harris.

MR. KIERN: Thank you, Mr. President, Officers, special guests, and Members.

This week the Vessel Operations Committee was pleased to hold two meetings; one in Washington, D.C., on Tuesday the 28th, and one yesterday here in New York. Between the two meetings, we featured ten speakers, including seven officials of government agencies, including the Coast Guard, the IMO, the Department of Interior, and U.S. Department of Justice.

In our Washington, D.C., meeting, we were pleased to have approximately 25 attendees, including government officials who were not presenting, but merely attending our meeting, including Vice Admiral Chuck Michel, the head of Coast Guard Operations and an MLA Member, and Chief Administrative Law Judge of the U.S. Coast Guard, Walt Brudzinski.

At our New York meeting, we had about 60 attendees, including special guests Rear Admiral Steve Poulin from the Coast Guard and John Hare of CMI.

The presentations included -- both in Washington and in New York -- presentations by the U.S. Coast Guard with respect to MARPOL 6 enforcement. Michaela Noble presented in

Washington and Captain P.J. McGuire presented in New York, and both explained how the Coast Guard and EPA efforts to coordinate enforcement of MARPOL Annex 6 are unfolding. They explained that the agencies are attempting to coordinate their efforts in a constructive manner. They also explained in the initial stages of enforcement, the emphasis is on education and trying to work with industry to come into compliance.

It was quite notable to me, at least, that although they've now had one quarter of enforcement experience under the new low, low sulfur regime since the first of January -- there have probably been 3,000 vessel calls in the United States in that first quarter but they've only had 22 instances of enforcement and only 5 instances in which vessels have been detained.

I asked Captain McGuire what his view was with respect to the availability of the low, low sulfur, and he indicated -- and I think a very thoughtful reflection -- that it's generally available, but there are some pockets where low, low sulfur fuel may not be available because exemptions have been provided to members of the industry to come into compliance, and as a result there's a lack of demand for the suppliers to provide the fuel. Very interesting discussion.

Joe Poux of the U.S. Department of Justice Environmental Crimes Division gave us an important reflection on events in criminal enforcement, and he explained basically that in the last year, the U.S. Department of Justice has prosecuted and concluded 20 criminal prosecutions with respect to its maritime vessel program. And he told us that, sadly, they're seeing the same kinds of misconduct that we've all been reading about for the last 20 years, except that he says crew members have even become more creative in the engine room in deciphering ways to evade preventive systems, which are aimed to result in enforcement and compliance by owners, yet the crew members in the engine room are still finding ways around it. So very interesting insight by Joe.

Mike Underhill and Jessica McClellan gave powerful and insightful presentations with respect to the developments in the DEEPWATER HORIZON litigation, and I expect Mike will be presenting later today to this group and will give more detail about that.

Lane Nemirow of the Department of Interior, alerted us to an important new rulemaking that the Department of Interior is promulgating with respect to vessel regulation engaged in offshore exploration. So if you've got clients in that area, I would call your attention to the new proposed rulemaking by the Department of Interior. As we all have witnessed in recent years, there's been an expansion of regulatory activity with respect to vessels by the EPA. Now post-DEEPWATER HORIZON, the Department of Interior is getting involved, adding yet another layer of regulatory oversight in the offshore exploration area, regarding the regulation of vessels.

Greg Linsin gave a thoughtful presentation about the recent decisions in the Fifth Circuit with respect to the interpretation and the meaning of the Seaman's Manslaughter Act that has developed with respect to a district court decision and the Fifth Circuit decision basically holding that the Seaman's Manslaughter Act does not apply to the drill team on the DEEPWATER HORIZON.

This was an important interpretative explanation of the potential limits of the Seaman's Manslaughter Act. This is so important because the Seaman's Manslaughter Act merely requires simple negligence for a criminal conviction as compared to the general federal statute of involuntary manslaughter, which would require gross negligence. So this is a very important development.

At our New York meeting, Fred Kenney from the IMO gave us a very comprehensive update of developments at the IMO, highlights of which include the IMO's current activity with respect to the Polar Code. There's a tremendous amount of reconsideration of safety, environmental protections, and STCW

application to the polar region, and other developments with respect to the code and other treaties that are being drawn into the code. So there's a significant development with respect to the Polar Code at the IMO.

He talked to us about MARPOL Annex 6 and a major decision the IMO will have to make about whether or not the new standards will go into effect in 2020 or 2025 depending upon the availability of equipment and so forth. So that is an important matter for us to keep our eyes on.

He also talked about the winding down of the 1971 Oil Pollution Fund and issues with respect to advances that were made under that fund. He discussed the Ballast Water Convention. He alerted us to the fact that it is on the verge of ratification by a sufficient number of states, ratification is just a few states short. So ratification and completion of that process can be expected perhaps this year.

He informed us that the Secretary General of the IMO has repeated his concern about the challenges that unilateral action by nation states presents to the IMO's efforts to develop comprehensive global solutions to problems.

Jeff Moller, our former Chair, gave an imaginative presentation about new technology with respect to unmanned marine vehicles. He is our MLA member on NAVSAC, the Coast Guard's Navigation and Safety Advisory Committee, and he explained to us the growing presence of unmanned marine vehicles in the oceans, not only in U.S. waters, but around the world. And these take the forms -- he had a great slide presentation showing us these marine drones, in effect. They are being developed by security forces around the world, including the U.S. Navy, research and development organizations such as NOAA, and industry organizations involved in the exploration for resources.

So while we've been watching stories on the news every night about the FAA deciding how it's going to regulate aerial drones in our neighborhoods, under the radar, a whole new form of marine drone is expanding throughout the oceans. It was a fascinating presentation.

And Jeff explained that the Coast Guard is facing challenges. It's trying to incorporate industry ideas, but it's faced with a circumstance where different parts of the industry have quite different ideas about whether they want these drones to be regulated by the COLREGS, for example. Traditional mariners are interested in being protected from these stealthy devices. The operators of the stealthy devices want to have maximum flexibility and don't want to have a light on them showing everybody where they are, as you could imagine. Very interesting presentation.

I provided a legislative update at both meetings highlighting two principal pieces of legislation. President Obama signed into law in December the Howard Coble Coast Guard and Maritime Transportation Act, which included important provisions for our industry. There were 75 provisions in that legislation, which is Public Law 113-281, which I recommend to you. It's worth studying to make sure there's nothing in there that might be a surprise for your clients.

Importantly, the Coast Guard did achieve a major objective that it's been pursuing for several years. It obtained the enactment of the Abandoned Seafarers Fund so that the government, that is, the Coast Guard, will now have public funds available to assist in circumstances where vessel owners abandon seafarers in the United States, and that will be funded by fines which vessel owners and operators pay for violations of law -- a major, I think, improvement in that area.

And finally, the Coast Guard -- the new Coast Guard Authorization Act of 2016 and 2017 was introduced in the House in the last week, and yesterday the Transportation Committee

approved it. And so this legislation is now moving at relatively lightning speed. And I would call your attention to it.

Like most of these Coast Guard bills, it's packed with many provisions of interest to the industry. This one's about 55 pages. I haven't had a chance to study it carefully myself, because it's literally just come out in the last week. But I quickly noted two provisions of interest to our colleagues.

First of all, the Congress is revisiting the question of the status of fishing permits and whether or not they are subject to maritime liens. This was mentioned by an earlier presenter today. It's been proven to be a highly controversial issue in years past. It was in last year's bill, but didn't make it to enactment. It's back again.

And, secondly, there's a significant proposal to enhance the power of the Secretary of Transportation to enforce cargo preference laws across the government. One of the big problems that U.S. flag operators have had in enforcing cargo preference requirements, that U.S. Government entities and programs actually use U.S. bottoms to transport government cargo, has been that other agencies have seen this as a nuisance and haven't been very interested in applying the requirement. This proposal would give the Secretary of Transportation added authority to get his colleagues in line.

I'd like to thank our host for the New York meeting, Vince Foley, and the law firm of Holland & Knight for their gracious hospitality. And I'd like to thank our Vice-Chair Dave Sump and our Secretary Allen Black for all of their work. And, of course, thanks to all our fine speakers, and, of course, our official guests.

Mr. President, that concludes my report.

PRESIDENT CLYNE: Thank you, Larry.

(Applause)

PRESIDENT CLYNE: Jason Harris followed by Stevedores, Marine Terminals, and Vessel Services.

We're doing well on time, but I do ask the speakers to give us a succinct report. We have a ways to go yet. Thank you.

MR. HARRIS: Thank you, Mr. President.

The Salvage Committee met on Thursday from 9 a.m. to 11 a.m. That's an expanded time slot. We met at Reed Smith. Thank you to our host, Lars Forsberg. We had nearly 40 in attendance this year.

We first heard from Bob Umbdenstock of Resolve Marine Group, who shared the sad news of the passing of Captain Joseph Frohnhoefer, founder of Sea Tow, and also the passing of Commander Bob Thurman, the operations manager of Merritt-Chapman & Scott Marine Salvage Company, well known to the marine salvage industry, as well as to many of you. I'm sorry to report that to this group.

In substance, we first heard from Barbara O'Malley of the Department of Justice. Her topic was "Treasure Salvage -- a Retrospective." Particularly she discussed the TITANIC and the SS CENTRAL AMERICA. Of particular interest to our group and perhaps you is the update on the recent capture of Mr. Thompson.

Next we heard from the dynamic duo of Art Meade and Lindsay Malen of Crowley and Titan. They informed us of the recent merger with Svitzer into what is now known as Ardent, very hot off the press. Their topic was "What if the COSTA CONCORDIA Incident Occurred in the United States -- Are We Prepared? An OPA 90 Perspective." Some of the high points were the issues surrounding responder immunity, regulatory climates, and particularly, dealing with the media and political management, which is a necessary function of an operation of that sort.

The next topic was “Salvage Contracts and Dispute Resolution Provisions.” First, we heard from the Society of Maritime Arbitrators on their MARSALV, which was promoted by Peter Wiswell, Manager of Marine Claims at Zurich.

Next we heard from Larry Acheson of Offshore Marine Towing in Fort Lauderdale. Larry told us about his form and his experience in the BoatU.S. Salvage Arbitration Program.

No discussion of salvage contracting would be complete without a discussion of the Lloyd’s Open Form as well as the BIMCO forms. And Jim Shirley, thank you for handling that task.

Next we heard from Dagmar Schmidt Etkin, our Vice-Chair, concerning “Calculating the Damages Averted in Environmental Salvage.” And there was a hot discussion following that, as you might imagine.

Finally, this year’s edition of *Recent Developments in Salvage Law* -- I think this marks the 11th year -- is available in the lobby and on the MLA website. Thanks to Ellen Shults for her significant contributions to that. Be sure if you -- be sure to pick up a copy if you anticipate any problem dosing off on your commute home.

Thank you very much, Mr. President.

(Applause)

PRESIDENT CLYNE: Nash Bilisoly followed by Uniformity of Maritime Law, Kevin O’Donovan.

MR. BILISOLY: Mr. President, thank you.

The first thing I might ask is one year you consider flipping the order, because it’s hard for men in our 60’s to wait this long sometimes.

The Stevedores, Marine Terminals, and Vessel Services Committee met Thursday in the offices of Holland & Knight. And we thank Vincent Foley again for hosting us graciously.

Every year it's been a tradition for Tom Langan, Risk Manager at Weeks Marine, to come and give an incredibly CLE worthy presentation, which we have sort of wasted over the years because we haven't gotten CLE credit. The CLE initiative from the MLA is working very well, and this year, with the help of Brian Eisenhower and Lara Merrigan from Thomas, Quinn & Krieger, we had a serious CLE -- very good presentation mostly initiated by Tom, who goes through the case law, primarily what's going to the Supreme Court on punitive damages, legislation, and regulatory and industry trends.

We went through rate agreements to the FMC -- the local waterfront commission, things that are going on. We have a written report already from Deborah Waters, who was our Secretary -- thank you very much for that -- and so I won't go through the detail. I do want to say that our Committee meetings are really interesting: We have the lawyers who try the cases, we have the professors who participated in the amicus briefs, we have the industry people who are really there. It is an illuminating, authoritative, and fun discussion, and I invite you to come.

Thank you, Mr. President.

PRESIDENT CLYNE: Thank you, Nash.

(Applause)

PRESIDENT CLYNE: Maybe what we can change is the name of your committee to make it more alphabetically appropriate.

Kevin O'Donovan followed by the Young Lawyers, Norman Stockman.

MR. O'DONOVAN: Good morning, Mr. President, Members of the Board.

The Uniformity Committee met on April 29th at the offices of Marshall Dennehey. Unfortunately our host Dan McDermott, the former Chair of the Committee, was not at the meeting because he was apparently out buying shorts, which you will see later today. I'm pleased to note that usually the Uniformity Committee tends to be a gathering of the gray beards, but we actually had a number of young lawyers there, which was much appreciated.

However, turning to the gray beards, we started off with Michael Sturley, who gave us a presentation on removal -- the recent changes or attempts to remove admiralty cases based on the change to the foreign defendant rule in the Federal Court's Jurisdiction and Venue Clarification Act. Michael reported that while these efforts to create a new basis for removal were a good attempt, the bulk of the recent decisions have rejected the efforts at removal, and therefore it is unlikely this Committee will have to report on that issue any more.

Next we had our Young Lawyers liaison, Eric Daniel, who gave us a presentation on a couple of issues. The first was a case out of Maryland in which there were attempts to have the court apply the Maryland statutory cap on noneconomic damages in a longshoreman's case, but this was rejected by the federal court. And then there was also a discussion that he led on the enforceability of collective bargaining agreements and the rates set in those agreements for maintenance and cure, and in particular whether those agreements are still accepted by courts or whether courts have the ability to overturn the collectively bargained rates.

There was then a discussion with updates on some of the cases we had talked about at prior meetings. In the *McBride*¹¹ case the briefing, as I understand it, is now complete and we should hear later on this year whether or not *certiorari* will be granted.

¹¹ *McBride v. Estis Well Service, LLC*, 768 F.3d 382, 2014 AMC 2409 (5th Cir. 2014), *cert. denied* 135 S.Ct. 2310 (2015).

There was a recent decision on the issue of enforceability in U.S. courts of Philippine Arbitration Awards. In several of these cases, there would be an arbitration award in the Philippines in favor of an injured Filipino seaman. That seaman would then come over to the United States and challenge the arbitration award on the basis that it was against U.S. public policy. A couple of district courts had upheld those challenges and held that the arbitration awards were against public policy. The Fifth Circuit stepped in a couple of weeks ago in the *Asignacion*¹² case and rejected the attempts by the district courts and plaintiff's counsel to have these arbitration awards overturned, essentially on the basis of comity.

We then had a discussion on recent cases holding that *uberrimae fidei* was well-established maritime precedent, and it has been discussed in some of the presentations earlier today.

We discussed the *Franza*¹³ case, holding that, at least in the 11th Circuit now, medical doctors are held to be agents of the cruise lines. I think -- as was discussed at the Healy Lecture last night, that this is possibly an issue that we will be hearing a lot more about in the future.

And finally, we discussed the recent *Hicks*¹⁴ decision by the Second Circuit which addressed maintenance and cure, permitting punitive damages in addition to attorneys' fees.

That concludes my report, Mr. President.

PRESIDENT CLYNE: Thank you, Kevin.

(Applause)

¹² *Asignacion v. Rickmers Genoa Schiffahrtsgesellschaft mbH & Cie KG*, 783 F.3d 1010, 2015 AMC 913 (5th Cir. 2015).

¹³ *Supra*, n.1.

¹⁴ *Hicks v. Tug PATRIOT*, 783 F.3d 939, 2015 AMC 1127 (2d Cir.), cert. denied sub nom. *Vane Line Bunkering, Inc. v. Hicks*, 136 S.Ct. 211 (2015).

PRESIDENT CLYNE: Hal Watson, Liz Burrell, and I attended the Young Lawyers meeting yesterday afternoon. I think we were all blown away by how well attended it was and what a great job they're doing. It is a great testament to Norman going off the Chair and handing off to Blythe Daly. I just wanted to say that we thought it was a terrific meeting and I am looking forward to hearing the details of what happened last night.

MR. STOCKMAN: Thank you, Mr. President.

And I want to apologize in advance. I lost my voice last night somewhere between the West Village and Midtown.

The Young Lawyers Committee met yesterday at the offices of Holland & Knight. I would like to thank Holland & Knight for their hospitality. We had 60 people in attendance, which I believe may be a record for our Committee.

Our feature presentation was a panel discussion on investigating and responding to marine casualties. The panel was moderated by Leanne O'Loughlin, and the panelists were Coast Guard Commander Jason Krajewski, Brian McCarthy of Melville, New York, and Ryan Gilsenan of Charleston, South Carolina.

It was a great discussion, and we were fortunate to have such a distinguished group of panelists, all of whom have a great deal of experience in the subject matter. Each of them provided practical advice for young maritime lawyers who are often called out as first responders in marine casualties.

We were fortunate, as well, to have President Bob Clyne, First Vice-President Hal Watson, and Past President Liz Burrell in attendance. The MLA's leadership has taken a keen interest in the young lawyers in the Association and we appreciate the support and encouragement we've been given.

Finally, we heard from our committee liaisons and also heard about our Committee's work, which you have heard about in some of these standing committee reports.

As is our tradition, we reconvened our meeting last night in a less formal setting. This year we went to Carroll Place in the West Village for cocktails and dinner, and after dinner we continued the evening at The Folly. Arrangements were handled by Pamela Schultz of San Francisco and Lindsay Sakal of New York, both of whom are owed our deepest thanks.

And once again our cocktail hour was sponsored by S-E-A, Ltd., to whom we owe our thanks as well.

It will come as no surprise, but the evening meeting was well attended. The precise events of the evening are, as usual, subject to strict secrecy pursuant to the unwritten code of the Young Lawyers. It's a code which evokes a code of another group of professionals who swear themselves to strict secrecy. Let's just say that it was fitting that our meeting was held in a family-style Italian restaurant, and it's probably also fitting that afterwards we went to a bar named The Folly.

I would like to add before concluding my report that this is my last year as Chair of the Young Lawyers and as a Member of the Committee. I've thoroughly enjoyed every moment. And I sincerely appreciate the opportunity to have served in the capacity of Chair of the Young Lawyers.

Our future officers will be Blythe Daly of New York as Chair, Jennifer Porter of San Francisco as Vice-Chair, and Imran Shaukat of Baltimore as Secretary.

Thank you, Mr. President.

PRESIDENT CLYNE: Thank you, Norman.

(Applause)

PRESIDENT CLYNE: Thank you for your leadership in this very important committee of the MLA. I have a certificate for you.

(Applause)

PRESIDENT CLYNE: Okay. That completes our standing committee reports. We're going to have some special reports. We're going to start with Liz Burrell on BIMCO. Then I'm going to ask Fred Kenney to report, give us an update on IMO followed by CMI.

MS. BURRELL: Good morning, Mr. President, Members and guests.

When I report on BIMCO, I usually remind you that BIMCO is a century-old organization of shipowners. I also remind you that one of its most important functions is generating forms that are used in all aspects of maritime commerce, and describe some of the Documentary Committee's current projects.

This year, however, I'd like to do something a little bit different, which is to tell you why BIMCO is important to you.

Much of our work involves contracts of one kind or another, whether we're on the transactional end of putting things together or whether we're representing parties who have developed a dispute arising out of their agreement. Of course, as lawyers, we are all convinced that we can express anything better than anyone else. Nevertheless, we know that there are advantages to our clients in not reinventing the wheel by using a form or established clause that has been reliably interpreted for years, with the additional benefit to the client of lower legal costs than drafting from scratch. BIMCO is the entity that generates most of the forms and clauses that represent industry standards.

A recent English decision illustrates just how much BIMCO clauses and forms are viewed in our world as the consensus of the trade. In that case, the court held that a BIMCO standard dispute resolution clause prevailed over the parties' hand-crafted clause within that same contract. Why? Because BIMCO represented an industry norm that everybody would know about and understand to be part of their agreement.

This case illustrates the importance of BIMCO forms in chartering but you should also know that it ain't just charter parties. BIMCO forms cover an extraordinarily wide range of subjects, including ship management, pooling, cargo entry, pollution, and so forth.

They are also very contemporary forms. While most have very well-established language, the forms are being updated and reexamined when circumstances change, when there are technological developments, when there are developments in the law, and when there's news in the world at large that affects risks and responsibilities.

For example, very, very rapidly and responsibly, BIMCO's Documentary Committee drafted the GUARDCON, a contract for hiring guards to protect your ship going through pirate-infested waters. Indeed, at the last session of the Documentary Committee when Ebola was in the headlines, the Committee considered whether the existing epidemic clause was adequate to the challenges of this disease or modifications or a new Ebola clause was needed. All of this activity is going forward constantly, but usually the awareness is not well known here in the United States.

So what I would like you to do is the next time you're reading an e-zine and you're about to click on an interesting link, don't click on that link. Instead, type in "BIMCO.org" and go to that website. And when you're at the website, click on "Documentary" and take a look at all of the different contract forms, take a look at all of the different clauses that are available to

assist you and your clients. And note that in addition to the forms themselves, there are very useful explanatory notes for very many of them. It is a free education about industry norms.

Take heed. Understand that these forms and clauses assist you. Even if you don't find exactly what you want, these forms can give you something to start with. They can also help you finding reliable language that will make it easier for your clients. Just take a look.

That's my report. Thank you very much.

(Applause)

MS. BURRELL: One thing to add, if you don't find a form that you think should be there, please get in touch with me, and I will be very happy to ask the Documentary Committee to consider that particular issue or clause. Thanks again.

PRESIDENT CLYNE: Liz, hold on. As you know, Liz wears many hats in the MLA. And while she's going to stay on as the MLA BIMCO representative, she has turned over the Chair of the Non-Lawyer Nominations Committee to Warren Marwedel. So we thank you for your service in both areas. And we have a certificate for you.

(Applause)

PRESIDENT CLYNE: Fred Kenney. We're very fortunate to have a good friend in Fred at IMO. I think it's great that he can give us an update on what's going on. Thank you.

ADMIRAL KENNEY: Well, thank you, Mr. President. I will be very brief as the recent comment regarding men in their 60s also applies to men in their 50s.

PRESIDENT CLYNE: Better get Bob Parrish's hourglass.

ADMIRAL KENNEY: Rather than an update on IMO, which I think Larry Kiern very eloquently gave during his report, I just wanted to make a couple of quick announcements regarding a couple things.

First I wanted to congratulate the MLA for the efforts you've had over the last three years that have really brought you closer to the IMO. The MLA has always had a strong relationship with the IMO, primarily through the President's participation as part of the U.S. delegation. Unfortunately for Bob Clyne, we've moved the date of next year's meeting to June, so I think he will only attend one legal committee during his term. And I apologize for that, Bob. But I thank your efforts to create a very strong relationship with the IIDM which has consultative status with the IMO and your efforts next year to hold the joint meeting with the CMI.

The CMI is a critical part and a vital consultative body with the IMO. Many of the 53 IMO conventions were born in the CMI. It's a longstanding, vital relationship, and the joint meeting you're having next year really represents a great step forward for the MLA into strengthening the already strong ties with the IMO.

The second topic I wanted to bring up is, as many of you know, the IMO sponsors two international celebrations every year, the Day of the Seafarer, which is held on June 25th, and then World Maritime Day, which is traditionally held the last week in September and will be celebrated on September 24th this year.

Each year World Maritime Day has a theme, and this year's theme is maritime education and training. We are linking that very closely with our Day of the Seafarer celebration and not just to highlight the important work that the various maritime education and training institutions, including law schools, do for the industry. But we're using this World Maritime Day theme as a way to leverage outreach on the issue of the future of the maritime industry and its personnel.

Those of you who have seen forecasts regarding the growth of shipping over the next 20, 25 years will know that there is anticipated to be a critical shortage of not just seafarers but everybody involved in our profession: Engineers, marine architects, surveyors, and even maritime lawyers. So we're trying to promote the need for all of us to go out and talk about our industry and attract the next generation to it. Shipping is the life line of humanity, and it is our responsibility to pass the need for safe, secure, and environmentally protected shipping on to that next generation and keep that good thing going.

Thank you very much.

(Applause)

PRESIDENT CLYNE: Thank you. John Kimball from the CMI, and he will introduce the other speakers.

MR. KIMBALL: Thank you, Mr. President.

As Fred said, the MLA continues to have a very strong relationship with the CMI. We've been active in the CMI since the beginning and look forward to a continued very close relationship between the MLA and the CMI.

CMI has benefited from some new leadership in the last few years, and I think we've seen a new level of energy and activity in the CMI as a result.

One of the great decisions that was made by the CMI recently was to appoint John Hare as the Secretary General. John has been with us this week. He has been a very active participant in many of our committee meetings, and I'm very privileged to ask John Hare to step forward to just bring a little update on CMI activities and also to talk about the upcoming colloquium in Istanbul in June. The US MLA will have a very strong delegation

at the Istanbul meeting and John will tell you what's going to happen.

Thank you.

PROFESSOR HARE: President Bob, Officers of the MLA, with that sort of welcome, I'm thinking I might immigrate to this place.

PRESIDENT CLYNE: Wouldn't be a bad idea.

PROFESSOR HARE: Thank you.

Dieter Schwampe and I have had an incredibly warm welcome this week. And I'm sure I speak for him -- I can't speak for Chris because he's one of you. But we've had a wonderfully warm welcome. I've never been to a spring meeting with you before and it was Stuart Hetherington, our president, who suggested that I should do it to put me in a better position to be able to work with Vince Foley and all of the many people in your Association who are already working so hard to put together our conference next year.

CMI2016newyork.org is our conference website, with the same format for Istanbul this year, and this conference will be a hugely significant event in the history of the CMI. Bob has allowed me a few minutes -- I believe he's got a stun gun if you go over that five-minute allocation. But he's allowed me a few minutes just to share with you a little bit of the connection and the history between this Association and the CMI.

You, by my calculations, are 114 years old this year. You're a comparative youngster. We're 116. Now -- and Bob has pointed out during the course of this week, and I think it's a really important point -- one of the purposes of the formation of the US MLA in 1899 was to enable it to join and participate in the then nascent and fledgling CMI that dates back to 1897.

And during the course of this 116 years, the CMI has convened 41 conferences thus far. So New York will be the 42nd. If you do a little bit of simple arithmetic, you will realize that that's a conference every just short of three years, taking into account also that during the Great War and the Second World War there was obviously a pause in the operation of CMI.

Two to three years separation between the big events is, I think, a sensible time span. And some of you have asked me and some of you, I'm sure, might wonder why we have had back-to-back Beijing, Dublin, Hamburg, Istanbul, and now New York events. It's little wonder, ladies and gentlemen, that Nigel Frawley resigned from this position if he's had to organize a conference every year, because, frankly, it takes up a huge amount of the Secretariat's time. But the reason why we've had to do it is that we've been struggling for the last four years to reach culmination of the text of the latest instrument the CMI has put forward, which is the instrument dealing with the draft convention for the recognition and enforcement of judicial sales of ships.

It requires a full conference to settle a text and, I'm pleased to say that consensus was achieved at the 2015 conference in Hamburg. The Judicial Sales instrument was launched -- I think probably the strongest I can say is "launched for noting" -- with Admiral Kenney at the IMO Legal Committee meetings two weeks ago. And that's the next stage of the process whereby instruments such as this are prepared, drafted, lobbied, and researched by the CMI and thereafter need to go through the U.N. hoops of the various agencies to get through to the international statute book.

Of course, previously the CMI was able to do this itself, largely through the efforts of the Belgian government. We are registered and were formed in Belgium, and that's our base. But nowadays, that function has been taken from the CMI and put into the U.N.'s basket, and that has resulted in the CMI having to have a fairly close look at its own functions, often its purpose, and its own *modus operandi*.

I'm happy to say that Liz Burrell has undertaken a study at the invitation of the CMI to look at the future of the CMI. Not the planning of the CMI, what things we're going to be working on -- but the future of CMI: Are we answering our constituencies properly, are we doing things properly, why are we there, and what should we be doing in the future?

The fact that we have only been here to the United States once in the last 116 years is disquieting at best. We came back in 1999 for an Assembly, which was our equivalent to this AGM, and at that Assembly where we shared your centennial celebrations, we made the decision to proceed with the drafting of what became the Rotterdam Rules.

But twice -- or one and a half occasions -- in 116 years is pretty far removed. That is not to say that the U.S. has been in any way on the outside of the CMI. On the contrary, the CMI has been blessed with an enormous number of loyal CMI stalwarts from your association. We have a number of honorary Vice Presidents. Our current Vice President is Chris Davis. Frank Wiswall has been around for a long, long time. I'm still in touch with him. He's a wonderful collector of CMI history.

And you also, I have to point out, are the largest contributor of levies into the CMI's pockets. And I've heard -- and it would be naive of me not to make mention of it. I have heard comments in the past of "what's in it for us?" In other words, what's in it for you? I know what's in it for us: You remember those posters, *Your Country Needs You?* Well, I can tell you that the CMI needs you.

What's in it for us, the CMI, I think possibly can best be answered by what I've seen this week, and that is to have the privilege of attending your committee meetings. Because though obviously you have certain idiosyncratic special issues that are peculiar to yourselves (some more peculiar than others, I might suggest) but you're doing much the same thing this side of the Atlantic that we are doing on the other side of the Atlantic. I use

the Atlantic as a divider. Obviously South America is this side as well. In essence, it's a different geographical grouping.

And my concern for the last 15 years in which I've been involved in the CMI is that we need to make those connections closer. We have had an enormous amount of cooperation within our working group structures, which parallel your committee structures. And that's where, ladies and gentlemen, I believe next year's conference is going to be particularly significant, because what I've seen this week is that we will be able to combine those groups.

And as I think I mentioned earlier this week, as I see it, it's not just three or four days of getting together, exchanging ideas and having a few drinks. That networking is very much a part of what you do, and I have to say that without any compunction we will admit that that is a part of the purpose of the CMI. The purpose of networking is not just to get briefs and to get new clients; it's to establish a fraternity within our profession that will be the foundation of the future of maritime law. Because through this fraternity we generate maritime law. That's what it's all about.

Now, having said those preliminaries, I'm about to be stung from behind. Where does that take us? It takes us from here on forward –

PRESIDENT CLYNE: And also in front.

PROFESSOR HARE: And also in front, right.

It takes us forward to Istanbul. We are meeting in Istanbul on the 8th and the 9th of June this year. A very interesting program has been put together. The focus will be the preparatory discussions leading towards -- may I whisper, Mr. President? May I whisper the New York-Antwerp Rules? Does that sound good to you? That's our primary purpose, to get that discussion going.

Because we can't come here without having done the preparatory work. The international working group on general average has been very active. It has great American participation. And we will hopefully get to a stage in Istanbul where we have identified the major issues and gone a bit further and prepared drafts. There are other interesting topics. Offshore drilling; obviously you have a committee dealing with the same things. Liabilities and responsibilities; Patrick Griggs has put together a really good seminar for one afternoon.

Because we're on the Bosphorus -- we're having a dinner cruise, but that, of course, is an aside. Because we're on the Bosphorus, we're looking at Straits Law. Young CMI are going to be very much involved. They've got an afternoon program as well. And then, of course, we have our Assembly.

We have a 172 registered for Istanbul as of yesterday, of whom 12 are from the United States and 6 are from Canada.

My big challenge is Past President Bob Parrish. I quietly offered him yesterday, at the CMI's expense -- I'm sure the Audit Committee won't complain -- a private Turkish belly dancing show. He muttered in response that he's got some problem in the Forrest. I can't quite work out what that is. But it seems to be sort of a veto, so I don't know -- but 12 from the United States, 6 from Canada, is great. We've still got space. 172 worldwide. It's going to be a great show. But it's going to be nothing compared to New York.

I give you my pledge that the CMI Executive Council and myself in particular will work very closely with you and be totally at your call. I now hand over to Vince Foley, who's been fantastic up until now, with thanks to all of you for welcoming me and the CMI. And may I also say, Fred, thanks to you for the very charitable comments you made just before I got up to speak.

Thank you, ladies and gentlemen.

(Applause).

PRESIDENT CLYNE: Vince Foley, Chairman of CMI 2016.

MR. FOLEY: Good morning, Mr. President, Members and guests. Thank you very much, John, for that introduction.

We've been working very hard with the CMI Planning Committee towards next year to make it the best collaborative event between the CMI and the MLA that we can.

We met yesterday on Wednesday, April 29th, at 3:15 at the offices of Seward & Kissel to discuss the status of the planning and what needs to be done going forward. And we had John Hare in attendance to exchange views from the CMI on the planning and to really start to -- we have the structure of the CMI conference in place, but now the details are -- it's becoming very important to get the details down to make sure that everything works very smoothly.

So the structure of the conference is set up for the New York Hilton on 53rd Street. We've rented the hotel conference space and a block of rooms and a grand ballroom for our joint gala dinner.

The CMI conference is going to be from May 3rd through 6th, 2016. It's going to start on Tuesday night with an opening ceremony, and then the main conference will start Wednesday morning with a keynote speaker, a welcome speaker from New York, and then they'll go right into the main activities of the CMI, some of which John has described.

In addition to that, we have a huge space over at the Hilton. It's literally a city block of conference space available to us. The central and main part of the conference will be for the CMI conference, but we have room there for joint meetings with the

MLA committees and the CMI working groups that are working on overlapping topics. We're really looking forward to bringing the MLA committees into the Hilton to have joint meetings to talk about interests common to both organizations and really the maritime law issues that we all deal with. So that's a very important part of the conference that we're looking forward to developing. And the Planning Committee is really trying to make that one of the primary objectives.

So in addition to the events -- well, the opening ceremony, there's two working days, Wednesday and Thursday. Wednesday night we have a cocktail party scheduled, a joint cocktail party, at the Rock Center Cafe in Rockefeller Center. The open-air area where the skating rink is in the wintertime, we have a third of that area. So we'll have a cocktail party with an opportunity to go up to the Top of the Rock for a view from the observation deck.

On Thursday night, we have the Healy Lecture at NYU Law School, and John Kimball has been working to get a high level legal speaker to address the CMI and the MLA. And Friday, we have our annual general meeting in the morning, a plenary session and general assembly of the CMI that's going to take place at the Hilton. And we're going to try to schedule that for the afternoon, so we can have both organizations attend both of our annual meetings. And then Friday night, a joint gala dinner with what we're expecting to be 1200 participants. We're planning for 300 delegates from the CMI. And I expect there will be more than 300, but we're planning for 300, plus accompanying persons of 75 to 100. So that's about 400 added to our normal 800 for the MLA dinner.

So I just want to tell everyone to plan on participating in the conference. The CMI delegates are coming to New York. It's a great opportunity to meet with them, to meet some new people, to learn about the international maritime law issues that they're dealing with, and to participate in this conference.

We are working on a registration website. That's another one of our prime objectives with the Planning Committee that I hope to show everybody at our Fall Meeting so that you are fully familiar with the registration and how you can register, and how we can all participate in this, what I expect to be a really great meeting.

So May 3rd through 6th, 2016. We're looking forward to it.

That concludes my report.

(Applause)

PRESIDENT CLYNE: Vince has done a lot of good work on this, and we still have a lot more to coordinate. We'll be working with the committee chairs, and we're looking forward to a great meeting with the CMI.

In-House Counsel, Skip Volkle. As some of you know, Skip has been the Co-Chair of this Committee since its inception. And he is not only turning over the Chair, he's also retiring soon. We want to thank you for all your great work, Skip.

MR. VOLKLE: Thank you, Mr. President. January I'm retiring. I'm going to go live on a sailboat so, living the dream.

The MLA In-House Counsel Committee met Thursday at Holland & Knight. Again, Vince Foley, thank you very much for hosting us. We had 23 members in attendance, pretty much representing the wide range of in-house counsel from across industry. We had underwriters. We had ship companies. We had tug and barge companies. ABS was there.

Admiral Poulin, again, we'd love to have some Coast Guard people come to in-house.

And we had a great meeting. The only problem with our Committee meetings is we always run out of time because we always have a lot of good issues to talk about.

And in this case, we started off with a presentation from Kent Roberts from Schwabe Williamson in Portland, basically the same presentation that he gave to the Towing Committee, for those of us in-house, particularly towing companies, as we look at the implementation of Subchapter M, but also for those of us who have SMS procedures in place. The discovery -- discoverability of investigations done pursuant to the SMS is a real problem. Unfortunately, Kent was able to talk about *Hooke v. Foss Maritime*,¹⁵ one of my favorites, in which the court ruled that since you're going to do an SMS investigation anyway, it is discoverable by the plaintiff even if it is done under the general direction of, at least in our case, in-house counsel. So we're looking at ways to enhance protection of those reports, including the use of outside counsel for cases that we foresee going to litigation. And we think that that may help.

There is a line of cases that do hold that investigations done directly by counsel or by -- on the direction of outside counsel are protected from discovery. But the concern, again, from our standpoint is if you ever sat through one of these classes taught by ABS and others on how to do a root cause -- there's a whole bunch of these different investigation procedures -- they tell people doing them you can't just say that the seaman screwed up. You have to find some way, some procedure, some process that can be improved to protect these guys from doing stupid things.

And so, you know -- I can tell you one of the examples was some guy did something incredibly stupid and the captain, who was doing the report, couldn't really think of anything other than what he did was really stupid. So his solution was more training and which, of course, the plaintiff's lawyers love to rely on.

¹⁵ *Supra*, n.3.

Although the guy's counter in deposition when they asked him about what kind of training did you have in mind, the captain said, well, what I was really thinking was if he was out at training at some facility somewhere, he wouldn't be on my boat getting himself injured. Smart captain.

We then had a presentation on punitive damages for denial of maintenance and cure, really a presentation of the kind of the range of what is covered by maintenance and cure, maintenance rates and all of that. Tom Muzyka from Clinton & Muzyka came up with a paper with -- written probably mostly by his associate Kirby Aarsheim, but we thank Tom for that report.

Again, from an in-house perspective dealing with issues of maintenance and cure and denial of maintenance and cure, we have seamen who fraudulently present medical documentation or lie about the absence of medical documentation, which is subsequently discovered and you have a *McCorpen*¹⁶ defense and how do you protect yourself from punitive damages if you decide not to pay maintenance and cure.

And the other thing we had -- we are pursuing in another case was, given the law at least on the left coast where courts will say the company may have basically the entire staff of Harvard Medical School that says the guy is at MMI, if he has, you know, Dr. Smith from -- with this degree from Mike's School of Auto Mechanics in medicine, you must give all doubts to the seaman. Well, we've gone to the court and insisted on a hearing on the MMI because our position is requiring us to pay without a hearing on the merits, not just on presumptions, is a denial of due process. And we're actually making progress on that argument out in a case in Washington.

So thanks to Kent Roberts and to Tom Muzyka for their presentations.

¹⁶ *Supra*, n.10.

Lastly, Kurt Odell from Moran gave -- unfortunately we ran out of time for him to give his summary of case law, but he did give a handout.

And so this is my last meeting as Co-Chair of the In-House Counsel Committee. I want to thank Liz Burrell, who founded our Committee, and I think it's been such a great opportunity for those of us who are in-house to get together and talk about the issues that we're dealing with every day.

Special thanks to Art Mead, who is my Co-Chair and has been since the start of the Committee, and to Tom Wynne, General Counsel of Interlake Shipping, who is taking over my spot as Co-Chair.

So thank you very much, Mr. President.

(Applause)

PRESIDENT CLYNE: Thank you for your leadership on this Committee. We have a certificate.

Okay. Mike Underhill, are you going to give a report on Government Counsel? Please keep it brief. We're running out of time.

MR. UNDERHILL: I'm from the executive branch, not the legislative branch, so I don't filibuster. I hope Congress is listening.

Very briefly, my colleague and I, Jessica McClellan, gave a brief update of the *DEEPWATER HORIZON* litigation. Phase I is -- I think we reported last year is concluded with a finding of gross negligence and willful misconduct on behalf of BP, negligence on behalf of Transocean and Halliburton, but no gross negligence and willful misconduct.

Phase II, report: Judge Barbier entered his findings determining on the private party side that BP had not factually or legally risen to the level of gross negligence or willful misconduct on its post blowout response actions. On the government side, on the quantification of how many barrels of oil came out of the well and into the water, Judge Barbier held that it was approximately four million barrels less 800,000 stipulated barrels that had been collected for a net discharge into the environment of approximately 3.19 million barrels.

Phase III of the trial, which was the last phase for the government other than natural resource damages, which are not even scheduled for discovery until Phase III is concluded. The final briefs were submitted to the court last week. Judge Barbier now has that case under submission. And in that trial and in his future findings, Judge Barbier will apply Phase I liability, Phase II number of barrels, and he will apply eight statutory factors set up in the Clean Water Act and determine what the total amount of the penalty eventually will be.

Phase I and Phase II are already up on appeal to the Fifth Circuit. A complicated briefing schedule has been set out. I think I reported at the meeting that there was more briefing on the briefing schedule than most merits briefs.

Phase III obviously is not up to the Fifth Circuit yet. It will be. When it comes out, somebody is going to appeal that case.

The final part of the report was that there is a significant ruling by Judge Barbier that I think has both short-term in *DEEPWATER*, but also long-term OPA effect, denying BP's motion denying the State of Alabama's jury. Alabama won that motion, and that is going to apply -- it was a test motion to apply to other *DEEPWATER* cases for compensatory OPA damages. And I think that's a long-term significant effect on OPA litigation because it's -- even though the compensatory damages in that case are probably the smaller portion of the damages, the right to a jury trial

could have the potential of being the tail that wags the bigger dog in having a jury trial with respect to other OPA aspects, including potentially response costs and natural resource damages. So that's, I think, going to have a big effect potentially on OPA for parties in cases for plaintiffs certainly that would prefer a jury rather than a judge. Obviously BP was dragged into court by all parties, assumed.

That's my report and thank you very much.

(Applause)

PRESIDENT CLYNE: Thank you, Michael.

MLA Report and Rotterdam Rules, Chet Hooper, followed by David Skeen on *American Maritime Cases*. We're getting close to being done.

MR. HOOPER: I'm here once again to tell you about the Rotterdam Rules that haven't been ratified yet. The government is working very hard on them. The State Department and MARAD are strongly in favor of them. The White House isn't going to send them to the Senate until the path is clear in the Senate. We have one -- I believe Michael Sturley described it as one personal sort of vendetta against the Rotterdam Rules by one person who has been able to persuade some ports, I think with poor advice, to fight the Rotterdam Rules.

If we had known that some ports didn't like them to begin with, we would have left the ports out. It's no big deal. The Rotterdam Rules' main objective is to provide uniformity to the contract between the shipper and the carrier on a door-to-door basis.

We're working on the port problem. If we can get rid of that objection, hopefully we can see the White House send the rules to the Senate and hopefully we can see a vote in the Senate, and even more hopefully, a two-thirds vote in the Senate.

On *The MLA Report*, we have some available for you to pick up here. They won't be mailed to you unless you ask for them to be mailed to you. So if you'd like an *MLA Report*, we have two more boxes of them under the table over there; please pick them up.

You are asked in the MLA website whether you want to get a paper copy of *The MLA Report* or just electronic. There's a default setting of electronic. You have to sort of wade through the website with some help to find the setting in your "dashboard" that you can change to paper.

I understand that you will be asked -- all Members will be asked whether they want paper or electronic. And so if you answer paper, you'll get the paper.

I'd like to mention that David Nourse does a tremendous amount of work on *The MLA Report*. He's great at proofreading and formatting and all sorts of things. He really tries to keep me on my toes, which is difficult.

We'd like to thank members of the Young Lawyers Committee who helped check the cites, grammar, and have corrected other problems. They put a lot of effort into it even though they had time constraints to do so. Corey Greenwald of Clyde & Co. in New York; Patrick Ward of Hand Arendall in Mobile; Jonathan Segarra of Maynard Cooper & Gale in Mobile; and Richard Beaumont of the Tulane Law School.

Thank you.

PRESIDENT CLYNE: Thank you, Chet.

MR. SKEEN: I come before you as one of the editors of *American Maritime Cases* from Baltimore, land of pleasant living. And I've been asked to announce that our 2014 bound volume will be dedicated to Douglas Stevenson, the Director of the Center

for Seafarers' Rights, Seamen's Church Institute of New York and New Jersey. This organization provides legal aid and assistance and advocacy for seafarers all over the world. My website research shows that they're doing some good work in connection with stress and its effect on seafarers from piracy -- around the world. So you will want to have a picture of Doug Stevenson in your library, he is that good looking guy over there, in the 2014 bound volume.

Thank you.

PRESIDENT CLYNE: Thank you, David.

(Applause)

PRESIDENT CLYNE: I just asked Brian Eisenhower, is there going to be a CLE report or no? I didn't think so, thank you.

Okay. Call on Lynn Krieger for the website. This has been a project. Lynn put countless hours into this. I am deeply, deeply indebted to her. We've still got a lot of things to do, and she'll go over those right now.

MS. KRIEGER: Thank you, Mr. President. Good morning fellow Board Members, Officers, Members and special guests.

My name is Lynn Krieger, and I was tasked with transitioning the website. We have now launched it and despite Mr. Farrell's remarks this morning, I was half joking all week long that I should be standing up here in a HAZMAT suit dodging flying tomatoes. I say that because I recognize that even if we had a completely glitch-free website, there is an adjustment period for all of us. The new website does not work like the old website, but that's because the new website has a lot of added functionality and flexibility and it provides our Members with a lot of options that we didn't have before.

With more options, however, comes the need to understand how to use those options. So I want to take a few brief moments this morning to highlight a few basic settings that will improve your experience interacting with the new website.

First, you can set your dashboard to be your home page. You don't have to keep clicking through the general photographs when you first log in. To do that, just log in to your dashboard, go to your home settings, and click a box that says "Set your profile page as this website landing page."

On that screen, you can also set up your dashboard to show all of the information you want to see, first, all the time, with "widget" applications. You can put on your dashboard all of the current upcoming events that are also on the calendar, announcements, discussions, and MLA minutes.

Second, you can set up your global e-mail notification preferences. Those preference settings determine how often you get e-mail notifications of activity on the website. You can change how often you get your committee notifications on specific committees. You go to each committee that you're a member of, and click your e-mail preferences to set whether you want notifications in a digest format, whether you want them received as a list, once a day, once a week, or whatever is your preference. So there are a lot of different possibilities there to make it a little more streamlined.

Third, as Chet Hooper just explained, the MLA has decided to move to a greener, more cost-effective way of distributing *The MLA Report*. They will be uploaded to the website where you can access them electronically, and download them.

In support of these efforts, we have set everyone's default preference for receiving *The MLA Reports*, to electronic delivery. If you want to receive *The MLA Report* in hard copy, uncheck the box on your dashboard that currently shows that you would like to

receive a copy of *The MLA Report* electronically. If you need help, you can always ask Robin or me.

In addition, to help you understand how to set your preferences and navigate the new website, we will be distributing a short list of these tips and other helpful information about the website in the near future.

We are still working on a number of sections, namely the document library and quality control on the subcommittees, so please bear with us while we work our way through that. We are also still developing sections of the website with content, such as the Member news section, legal development section, and other pages that we're going to be updating regularly with Member input and content.

We're taking feedback from Members about how to improve the site. We selected a platform that will allow us a lot of flexibility to change the way the website functions. So please contact us with any questions, concerns, or issues. I know that I've heard from a lot of you through Robin, and we try and tackle those questions as fast as we can. So feel free to get in touch with us.

That concludes the report of the Website and Technology Committee.

But before I go, I'm changing hats, and I would like to introduce Jim Moseley of the Fall Bermuda Arrangement Committee.

Thank you.

(Applause)

MR. MOSELEY: I'd like to have our Committee Members come forward who are here in the audience. Some of them are braver than others.

But I am pleased to announce that the 2015 Fall Meeting will be in Bermuda at the beautiful Fairmont Southampton. We're showing pictures on the slide show here but these pictures don't do it justice. It's right above the world famous Horseshoe Bay, which has been ranked as one of the top ten beaches in the world.

We are having the normal activities, our signature events that we normally have for professional, social, and recreational events. Our golf chair, Dan McDermott, has arranged golf at Port Royal, which is one of the leading golf courses in the world. They're recognized by *Golf Digest* as one of the finest, and *The New York Times* recently ranked it as number one in Bermuda.

We are also having sailing by our sailing captain, Lynn Krieger, at the Royal Bermuda Sailing Yacht Club. And this yacht club usually hosts world class events, and they've agreed to have us as well.

Norm Stockman is organizing fishing off the coast of Bermuda, and we'll have plenty of boats to go around. And then we also have the fun run. Rob Hopkins is organizing a fun run, which will run just above Horseshoe Bay and right around the pink beaches. Lori is organizing tennis at the club and we'll have a round robin.

And not only are we going to have these kind of events, we also are going to have, we anticipate, 12 hours of CLE. Our CLE Chair, John Farmer is working very hard on putting together a very comprehensive program. This being Bermuda, insurance and P&I Club issues are going to be at the forefront. And we are looking forward to having a wonderful CLE program.

In addition to CLE opportunities that you can have at committee meetings, we'll also have our normal committee meetings.

I also want to thank Borianna Farrar, who is organizing the committee meetings. And if you are a committee chair, you will be hearing from her shortly.

Our Vice-Chair, Lisa Beazley, is putting together our gift baskets. And we're also going to have some spousal activities for the spouses to go see everything. We also have a beautiful spa at the Fairmont Resort.

So it's going to be a wonderful, wonderful event. Please plan on going. I think it's going to be one of the highlights of the year.

Also, I just want to let you know that maybe as soon as next week, you will be receiving your hotel registration e-mail, which you just click on and you can then register directly with the hotel. We will then send out later this month or maybe next month the registration for the entire program.

And we all look forward to seeing you in Bermuda. Thank you.

(Applause)

PRESIDENT CLYNE: Thank you, Jim. This Committee is very well organized. They've really done a terrific job. It's going to be a great meeting. Hope all of you can make it.

Mr. First Vice President, on the Fall of 2016.

MR. WATSON: As many of you know, the first meeting of this Association ever held outside of New York was held in 1966 in New Orleans. And in connection with that first meeting in 1966 was the first Tulane Admiralty Law Institute. October 2016 we're going to be celebrating the 50th anniversary of those two events by having a city meeting in New Orleans in conjunction with the Tulane Admiralty Law Institute that would normally have been held in March 2017. More details to follow.

PRESIDENT CLYNE: Thank you. Is William Fennell here? Just give us a couple of words about the dinner tonight.

MR. FENNELL: Thank you, Mr. President, Officers, Directors, special guests, and Members.

The annual dinner will be held at Cipriani this evening. Cipriani is located downtown at 55 Wall Street, which is just a short subway ride from here on the 2 or 3. Or if you're coming from the CLE this afternoon, it's on the 4 or 5 train downtown.

Cocktail hour will start at 6 p.m., followed by invocation and dinner at 7. There's an open bar until 11 o'clock, so there's going to be plenty of opportunity for everyone to socialize and have a drink.

We've got an excellent turnout again this year. And there is actually still space for a few more folks. So if you're interested in attending and have not done so yet please find me after the meeting.

I know the Officers as well as Robin Becker and the Dinner Committee have worked hard to put together a fantastic event. So I'm looking forward to seeing you all tonight.

(Applause)

PRESIDENT CLYNE: Thank you, William.

Just a quick note. In the Fall of 2017, we are going to Napa Valley where we have signed a contract with Silverado, and so that should be a great event. More info on that later.

Okay. Before I ask for the report of the Nominating Committee, I would just like to ask two of our outgoing Board Members, Joe Walsh and Charlie Anderson, to please come up to the podium. Katharine Newman and Mike Bell will not be here,

but they are the four going off the Board, and I just wanted to thank them for all of their tremendous work. Being on the Board of Directors takes some investment of personal time, and this class has done a wonderful job. Thank you very much, Charlie and Joe and Katharine and Mike.

Mr. Parrish, can we have the report of the Nominating Committee?

MR. PARRISH: Yes, Mr. President. The Nominating Committee, having duly constituted on April 29th unanimously recommends to the Membership for election the following Officers: For President, Robert G. Clyne of Houston; for First Vice President, Harold K. Watson of Houston; for Second Vice President, Francis X. Nolan, III of New York; for Secretary, David J. Farrell, Jr. of Cape Cod; for Treasurer, William R. Connor, III of New York; and for Membership Secretary, Barbara L. Holland of Seattle; and for four Members of the Board of Directors, LeRoy Lambert of New York; Joseph G. Grasso of Philadelphia; Jonathan S. Spencer of New York; and R. Michael Underhill of San Francisco.

PRESIDENT CLYNE: Do we have a motion?

MEMBER: So moved.

PRESIDENT CLYNE: Second?

MEMBER: Second.

PRESIDENT CLYNE: All in favor?

MEMBERS: Aye.

PRESIDENT CLYNE: All opposed?

Thank you and congratulations to the new Board Members.

(Applause)

PRESIDENT CLYNE: Is there any new business?

I would ask Mr. Hooper to come up and make a motion then.

MR. HOOPER: Thank you, Mr. President. It was a fine meeting. Listening to all of the reports reminded me of some advice that I received almost 50 years ago or maybe it was exactly 50 years ago from the Captain of my Navy ship, brilliant ship captain, when he qualified me as an Officer of the Deck. He said, Chet, I'd like you to do two things: If you want to turn left, would you please walk out to the port wing first and, second, if you want to turn right, would you please walk out to the starboard wing first.

I think the failure to follow that simple advice has brought us all a lot of business, but it happens.

Mr. President, I move to adjourn.

PRESIDENT CLYNE: Second?

MEMBER: Second.

PRESIDENT CLYNE: All in favor?

MEMBERS: Aye.

PRESIDENT CLYNE: We are adjourned. Thank you very much.

(The meeting adjourned at 12:08 p.m.)

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

Held at Jones Walker LLP
New Orleans, Louisiana on
Tuesday, March 10, 2015 9:00 a.m.

The March 10, 2015 meeting was called to order by
President Robert G. Clyne at 9:00 a.m. In addition to President
Clyne, the following Officers were also present:

Harold K. Watson, First Vice President
Francis X. Nolan, III, Second Vice President
David J. Farrell, Jr., Secretary
William Robert Connor, III, Treasurer
Barbara L. Holland, Membership Secretary

The following Directors were present:

Robert B. Parrish, Immediate Past President

Michael K. Bell	Lynn L. Krieger
Katharine F. Newman	Daniel G. McDermott
Joseph A. Walsh, II	Donald C. Radcliff
Christopher E. Carey	Kevin J. Thornton
John S. Farmer	David N. Ventker
Boriana Farrar	

At President Clyne's invitation, Past Presidents Howard M.
McCormack, Raymond P. Hayden, Thomas S. Rue, Lizabeth L.
Burrell, and Warren J. Marwedel also attended the meeting.

SECRETARY'S REPORT

On motion duly made and seconded, the Board unanimously approved the minutes from the October 24, 2014 meeting of the Board of Directors held in Philadelphia.

Consistent with the motion approved at its May 1, 2014 meeting, the Board decided that a blast email advising Members of the need to opt in to receive hard copies by U.S. mail of the Spring and Fall 2014 MLA Proceedings and the Fall 2014 MLA Report would await until after our website launch and the May 1, 2015 General Meeting of the Association.

TREASURER'S REPORT

Mr. Connor discussed his Quarterly Report for the three months ending December 31, 2014, summarizing that the MLA's finances are generally in good shape. He reported that thanks to generous sponsorships by Philadelphia law firms the Fall 2014 Philadelphia meeting was able to return a small profit. He also noted that pursuant to By-Law 213.2, there were 55 memberships automatically terminated for non-payment of dues over three years.

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

MEMBERSHIP SECRETARY'S REPORT

Ms. Holland reported that since the Board's October 24, 2014 Philadelphia meeting there were fourteen applicants for Associate Lawyer membership:

Yaakov Adler
New York, NY

Andrew Ciganek
Los Angeles, CA

18827

Jack R. Daley
Baltimore, MD

Joseph A. Devall, Jr.
New Orleans, LA

John P. Dimitry
Fort Worth, TX

Edward Barrett Hails
Mobile, AL

Bronagh M. Kelly
New York, NY

David R. Maass
Palm Beach, FL

LCDR Brian McNamara
Mandeville, LA

James Noel
Norfolk, VA

Jarrold A. Rainey
Washington, DC

Clifford B. Thompson
Houston, TX

Alison Wilson
Long Beach, CA

Hansford "Ford" P. Wogan
New Orleans, LA

Ms. Holland also reported that she received thirteen applications for Law Student membership:

Valerie A. Barrios-Arce
New Orleans, LA

Laura Taylor Coley
The Woodlands, TX

Danielle T. Gauer
Miami, FL

James L. Johnsen
Alexandria, VA

Kimberly Bentson Kauth
New Orleans, LA

Kirsty Koopmans
New Orleans, LA

Reese B. Mitchell
New Orleans, LA

Matthew J. Pallay
Colonia, NJ

Kelly D. Parks
New Orleans, LA

Brandon Foster Smith
Brighton, MA

Mark Vessio
Malverne, NY

18829

Clayton J. Vignocchi
New Orleans, LA

Karen York
New Orleans, LA

Ms. Holland regretfully reported learning of the following
six deaths:

The Hon. Harold Baer, Jr.
New York, NY
Judicial Member: elected 1995

John A. Chamberlain
Woodbury, CT
Non-Lawyer Member: elected 1997

William R. Dorsey, III
Baltimore, MD
Life Member and Past President: elected 1966

Gerald Gaudet
Lafayette, LA
Life Member: elected 1965

John R. Lacy
Honolulu, HI
Proctor Member: elected 1982

James Sentner
Houston, TX
Life Member: elected 1966

With the above membership changes, the MLA's total
Membership is now

VOTING MEMBERS

Proctors	1269
Associates	1141
Non-Lawyers	174
Academic	23
Subtotal	2607

NON-VOTING MEMBERS

Ex-Officio	13
Honorary	4
Judicial	121
Law Students	25
Subtotal	163
TOTAL	2770

Ms. Holland also noted that the 2014-2016 *Directory* was in the mail and would be received shortly by Members.

On motion duly made and seconded, the Board unanimously adopted Ms. Holland's report.

FIRST VICE PRESIDENT'S REPORT

In addition to Directors, First Vice President Watson will encourage Committee Chairs and particularly the Young Lawyers Committee to contact him with suggested postings for the website Events Calendar.

SECOND VICE PRESIDENT'S REPORT

In advance of the Committee Chairs' lunch meeting to be held April 29, 2015, Second Vice President Nolan asked Board

Committee Liaisons to attend and it was urged that they generally offer assistance to their Chairs, making sure that Committee meeting agendas are timely posted. He will be asking the Chairs to start looking toward the Spring 2016 MLA/CMI meeting, encouraging them to consider joint MLA Committee meetings which might be held jointly with appropriate CMI working groups.

WEBSITE

With the imminent launch of our new website scheduled for March 20, 2015 and the added complication of our current website platform with ICVM expiring in any event on March 31, 2015, the Board held a long and detailed discussion on various management, logistical, security, contingency, and remedial plans.

Unanticipated delays in Boost by Design's creation of the new MLA website and transfer of our database were specifically addressed as was MLA Administrator Robin Becker's training and comfort level with the new system.

All of these issues will be closely monitored and dealt with by President Clyne, Ms. Krieger, and others over the next ten days and coming weeks, with cautious optimism that a seamless transition will be achieved for our Membership.

DISCUSSION ITEMS

Membership Issues

In conjunction with the new website, the Board approved the website page promoting MLA Membership drafted by the "Join the MLA" Board Subcommittee.

Mr. Walsh raised the possibility of creating an MLA LinkedIn group. It was decided to refer this to the Website and Technology Committee and Young Lawyers Committee for their consideration.

As addressed at several recent Board meetings, possible amendments to Non-Lawyer Membership By-Law 204 were considered. After discussion, it was decided that Past President Marwedel, the new Chair of the Non-Lawyer Nominations Committee, and Past President Burrell, its immediate past Chair, would put together a memo highlighting related issues in order to assist future discussions.

Comité Maritime International (“CMI”)

Several CMI items were addressed by the Board, including nominations for two vacant Executive Councillor positions and Treasurer.

For the Board’s information, a CMI Questionnaire on Maritime Arbitration and a memo summarizing recent work by the CMI working group on general average were attached to the agenda.

Second Vice President Nolan reported on the working group he is chairing which will survey the definition of “vessel” under the laws of various nations and legal regimes. He also commented there is a working group on the Cape Town Convention which established a central filing system for aircraft, rail, and space financing documents; he noted there was a recent proposal to expand the Convention to include vessel financing documents as well, which he noted had strong opposition.

The next CMI meeting is scheduled for Istanbul, June 6-8, 2015. President Clyne, First Vice President Watson, Second Vice President Nolan, and Vincent J. Foley will be attending on behalf of the MLA.

Rotterdam Rules

President Clyne reported there is general frustration in many circles with delays in obtaining U.S. approval of the

Rotterdam Rules due to late-surfacing opposition from domestic ports.

BIMCO Dispute Resolution Clause

President Clyne reported that while pleased that the proposed BIMCO dispute resolution clause includes New York along with London and Singapore as possible venues, he is concerned that the present draft provides that arbitrators are limited to “commercial people” as sometimes a dispute has particular need for a determination of substantive law issues. He is working with Past President Burrell, the MLA BIMCO representative, on alternative language that would be satisfactory to the Membership.

FUTURE MLA MEETING PLANS

Spring 2015 New York City Meeting

The Board discussed plans to notify the Membership of the April 28 to May 1, 2015 MLA Committee meetings, General Meeting of the Association, and dinner at Cipriani Wall Street. It was decided that an email blast to all Members would be sent by the end of the week.

There was also a discussion regarding the MLA’s reservation of blocks of New York City hotel rooms for out-of-town Members. In recent years Members have not been taking advantage of these arrangements, leaving the MLA with potential financial obligations for guaranteed minimum bookings. The Board decided not to reserve any hotel rooms this year but may revisit the issue in the future.

Summer 2015 Board Meeting in San Francisco

President Clyne asked the Board to make reservations at Parc 55 Hotel for the August 7-8, 2015 Board meeting. The Board is looking forward to a good opportunity to visit with our California Members and recruit new Members.

Fall 2015 Bermuda Meeting

President Clyne reported the Bermuda Arrangements Committee is well underway, chaired by James F. Moseley, Jr., with John F. Farmer heading up CLE. Mr. Moseley will report on planning at the next April 30, 2015 Board meeting in New York.

March 2016 Board Meeting

President Clyne reported he is considering Charleston or Savannah for next spring's Board meeting.

Spring 2016 New York Meeting with CMI

President Clyne reported that Mr. Foley is doing a good job planning the joint MLA/CMI meeting next spring. He is currently seeking sponsors. The preliminary schedule includes a Tuesday evening opening reception, a Wednesday cocktail reception at Rockefeller Center, the Healy Lecture on Thursday, with a Gala MLA/CMI Dinner on Friday night at the Hilton. Mr. Foley will report on planning updates to the Board at the next April 30, 2015 Board meeting in New York.

Fall 2016 New Orleans Meeting with Tulane Admiralty Law Institute ("ALI")

First Vice President Watson reported that logistical planning is moving ahead with the assistance of Grady S. Hurley and Edward F. LeBreton, III. On Tuesday, October 25, 2016 there will be an afternoon Board meeting and dinner. On Wednesday, Thursday, and Friday mornings the theme of the ALI sessions will be a fifty year perspective on maritime law; on those afternoons MLA Committee meetings including CLE will be held. To minimize attendees' travel to and from the Tulane campus, holding all ALI and MLA meetings downtown is under consideration.

President Clyne asked Board Committee Liaisons to contact Committees and encourage them to identify timely topics and seriously consider authoring law review articles in conjunction with presenting during ALI sessions.

Fall 2017 Napa Valley Resort Meeting

First Vice President Watson reported that a contract had been signed with the Silverado Resort and Spa. There was general approval in principle, subject to working out the details, that the Pacific Admiralty Seminar will be held in conjunction with and provide CLE at the Napa Valley meeting.

RECENT ACTIVITIES

President Clyne reported that Past Presidents McCormack, Hayden, and Burrell and Second Vice President Nolan, all from New York City, represented the MLA at the 225th anniversary of the Southern District of New York on November 4, 2014.

President Clyne also reported that the Officers' annual January luncheon with top U.S. government maritime lawyers had a very good turnout despite inclement weather, with many appreciative comments received.

There being no other business, President Clyne adjourned the meeting at 11:43 a.m.

Respectfully submitted,

/s/ David J. Farrell, Jr.

David J. Farrell, Jr.

Secretary

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

Held at the Association of the Bar of the City of New York
Thursday, April 30, 2015 9:30 a.m.

The April 30, 2015 meeting was called to order by
President Robert G. Clyne at 9:30 a.m. In addition to President
Clyne, the following Officers were present:

Harold K. Watson, First Vice President
Francis X. Nolan, III, Second Vice President
David J. Farrell, Jr., Secretary
William Robert Connor, III, Treasurer
Barbara L. Holland, Membership Secretary

The following Directors were present:

Robert B. Parrish, Immediate Past President

Michael K. Bell	Lynn L. Krieger
Joseph A. Walsh, II	Daniel G. McDermott
Christopher E. Carey	Donald C. Radcliff (by phone)
John S. Farmer	Kevin J. Thornton
Boriana Farrar	David N. Ventker

At President Clyne's invitation, Past Presidents Howard
M. McCormack, Elizabeth L. Burrell, and Warren J. Marwedel
attended the meeting.

Also at President Clyne's invitation, Vincent J. Foley and
James F. Mosely, Jr. attended portions of the meeting to address the
Board.

SECRETARY'S REPORT

On motion duly made and seconded, the Board unanimously approved the minutes from the March 10, 2015 meeting of the Board of Directors held in New Orleans.

TREASURER'S REPORT

Mr. Connor discussed his Quarterly Report for the three months ending March 31, 2015. He summarized that the MLA's finances are generally in good shape, with a little less money than a year ago, largely due to expenditures on our new website approximating \$50,000.

Noting a shortfall in 2015 dues collected from dues invoiced, Mr. Connor raised several possibilities for reminding delinquent Members, including making use of our website.

Mr. Connor addressed the Annual Spring Dinner, with expected attendance at roughly 758 down somewhat and a \$275 price (now including wine with dinner) up somewhat, yielding a small MLA profit. He noted that other New York City maritime industry dinners had recently experienced attendance declines.

A Board discussion ensued with some concern that the Annual Spring Dinner price had become too expensive and inquiries as to whether the drop in attendees was attributable to Member and/or Guest declines. There were also comments that perhaps the dinner should be held on Thursday night instead of Friday to increase attendance but concern that this would diminish attendance at the General Meeting of the Association on Friday morning. With the Spring 2016 dinner to be held Midtown jointly with the *Comité Maritime International* ("CMI"), Cipriani Wall Street has been reserved for Spring 2017 but the Board concluded another look at Pier 60 and the Marriot Marquis and pricing options there may well be merited.

On motion duly made and seconded, the Board unanimously approved Mr. Connor's report.

MEMBERSHIP SECRETARY'S REPORT

Ms. Holland reported there were fifteen applicants recommended for Proctor membership:

Todd M. Baiad
Savannah, GA

Samuel P. Blatchley
Boston, MA

Dane Bruun
Corpus Christi, TX

Seth Buskirk
Wilmington, NC

K. Blythe Daly
New York, NY

Robert L. Gardana
Miami, FL

Patrick Michael Leahy
Jacksonville, FL

Bradley R. Mozée
San Ramon, CA

Pamela Palmer
Los Angeles, CA

18839

Ryan A. Puttick
New York, NY

Ivan M. Rodriguez
Houston, TX

Robert J. Stefani
New Orleans, LA

Timothy E. Steigelman
Portland, ME

Christopher C. Storm
Boston, MA

Rahul Wanchoo
Upper Saddle River, NJ

There were nineteen applicants for Associate Lawyer
membership:

Robert Bamdas
Boca Raton, FL

Nathan Beard
Seattle, WA

Jonathan Benner
Washington, DC

Peter F. Black
New York, NY

Michelle T. Castle
New York, NY

Arturo Castro
Mineola, NY

18840

Raul J. Chacon, Jr.
Miami, FL

Hyunah Kristen Chung
Paramus, NJ

William E. Donohue
New York, NY

Joseph Federici
New York, NY

Matthew Kaiser
Washington, D.C.

USCG CDR Jason M. Krajewski
Pine Beach, NJ

Daniel Maland
Newark, NJ

Leo R. McAloon III
New Orleans, LA

Juliette McCullough
San Francisco, CA

Kelly Mulrane
Columbus, OH

Christopher Murray
Mineola, NY

Angelique So
Los Angeles, CA

18841

Michael W. Thomas
San Francisco, CA

Two applications for membership reinstatement were received:

Matthew Marion (Proctor)
Rowayton, CT

Joseph Tabrisky (Associate Lawyer)
Pasadena, CA

Ms. Holland reported there were five applicants recommended for Non-Lawyer membership:

Thomas R. Hill
Gloucester, MA

Cynthia A. Hudson
Camden, NJ

Carole Martrou
Norfolk, VA

Sanjive Nanda
New York, NY

Eric W. Sorensen
Morrisonville, NY

And one law student had become a Law Student member since our March meeting:

Walter Morris, Jr.
New Orleans, LA

With the above membership additions, the MLA's total membership is now

VOTING MEMBERS

Proctors	1285
Associates	1146
Non-Lawyers	179
Academic	24
Subtotal	2634

NON-VOTING MEMBERS

Ex-Officio	13
Honorary	4
Judicial	120
Law Students	26
Subtotal	163
TOTAL	2797

On motion duly made and seconded, the Board unanimously adopted Ms. Holland's report.

SECOND VICE PRESIDENT'S REPORT

Second Vice President Nolan reported on the Committee Chairs' lunch meeting held April 29, 2015. He emphasized to the Chairs their need to start planning for the next three MLA meetings.

First, for the Bermuda Fall 2015 resort meeting, the Chairs were urged to develop joint programs providing CLE credits during committee meetings.

Second, for the New York Spring 2016 meeting with CMI, the Chairs were urged to cooperate and integrate their meetings with CMI International Working Groups with parallel interests. As an example, he has asked the MLA Committees on Marine Financing, Marine Insurance and General Average, Marine Torts and Casualties, and Offshore Industries to each appoint a liaison to him as Chair of the new CMI International Working Group on Vessel Nomenclature.

Third, for the New Orleans Fall 2016 meeting with the Tulane Admiralty Law Institute (“ALI”), the Chairs were requested to consider timely topics, presentations, and articles appropriate for the 50th anniversary of the ALI. The Chairs were also asked to consider who might be suggested as speakers at this event.

DISCUSSION ITEMS

Website

With our new website now up and running, Ms. Krieger demonstrated how to set several preferences on Member dashboards, including how to upload a photograph. A blast email to the membership containing simple directions on similarly personalizing dashboards and general usage instructions was discussed.

Ms. Krieger also reported on the delayed availability of the MLA document library on the new website. The prior cataloguing of library documents requires new organization for more coherent electronic storage and searchability, which was taking longer than expected.

Other topics discussed were the continued role of the First Vice President as webmaster and approver of appropriate legal and industry events for posting on the website calendar and a decision to approach *American Maritime Cases* to most efficiently publicize new cases. There was also a question raised as to MLA

Administrator Robin Becker's role with the new website and contingency arrangements were she to retire, for example. It was decided that this would be addressed at the next Board meeting in August 2015.

Linkedin

A discussion begun at the March 10, 2015 Board meeting continued regarding the MLA's use of LinkedIn, particularly in the context of our new website. Since that meeting, input from the Young Lawyers Committee had been received, which was split, as were Board comments.

Some expressed a lack of enthusiasm for an MLA presence on LinkedIn, believing that would detract from our new website, while others advocated that exposure on LinkedIn and other social media was essential for optimal networking.

The Board was asked to reach out to other Members for their thoughts and be prepared to vote on a LinkedIn decision at the next Board meeting in August 2015.

Amendment of By-Law 204, Eligibility for Non-Lawyer Membership

As addressed at several recent Board meetings, possible amendments to Non-Lawyer Membership By-Law 204 were considered. It was decided that a draft amendment would be prepared for a vote at the next Board meeting in August 2015.

Comité Maritime International ("CMI")

President Clyne reported on the results of the CMI election for Executive Counselor.

On motion duly made and seconded, the Board unanimously approved the MLA's response to a CMI

Questionnaire on Maritime Arbitration which had been prepared by the Committee on Arbitration and ADR.

Local MLA Luncheons

Mr. Farrell reported on an April 2, 2015 gathering in Boston which included a full day educational seminar and reception at the Federal Courthouse, well attended by the local maritime bar and industry members. An entertaining highlight was an animated presentation by Judge William G. Young, sponsored by the MLA, who spoke about two 1800s District of Massachusetts admiralty cases and their precedent on judicial review and the president's Article II war power. Judge Young then gave a tour of his maritime art collection displayed in his courtroom and chambers.

MLA Archives

Mr. Farrell also reported that all of the known hard copies of documents dating back to the MLA's founding in 1899, which had been dispersed among various law offices, have been collected and deposited for safe keeping in William E. Bell's Manhattan office. He will now begin the arduous task of sifting through 70+ cardboard boxes and organizing their contents to identify historically significant documents, determining which should be copied and stored electronically and which should also be preserved as originals due to their importance.

BIMCO Dispute Resolution Clause

Past President Burrell noted she continues to monitor proposals regarding BIMCO's dispute resolution clause and its limitation of arbitrators to "commercial people" as well as choice of law issues.

FUTURE MLA MEETING PLANS

Summer 2015 Board Meeting in San Francisco

President Clyne reminded the Board to make early flight and Parc 55 hotel reservations for the August 7-8, 2015 Board meeting. A Friday evening reception with the local maritime bar is planned for the St. Francis Yacht Club.

Fall 2015 Bermuda Meeting

James F. Moseley, Jr., Chair of the Bermuda Arrangements Committee, reported on meeting plans. He described the Fairmont Southampton as a spectacular facility. He anticipates Member registration fees will be in the \$800 to \$900 range, which will include food and alcohol charges for dinner events each night. He also anticipates that sponsorships will help defray costs.

Regarding the schedule of events, registration will open Tuesday October 20 with the Officers' meeting that morning and the Board meeting that afternoon. On Wednesday there will be golf and tennis and the traditional President's Reception for first time attendees that evening. On Thursday there will be early morning charter fishing, committee meetings and CLE programs, and a casual beach party that evening. On Friday there will be more committee meetings and CLE programs and a dinner dance. On Saturday there will be an early morning fun run, the General Meeting of the Association, midday sailing, and an evening ice cream social. Sunday October 25 will be departure day for most attendees.

Mr. Moseley noted that the Bermuda Arrangements Committee is benefitting from the active involvement of Directors Farrar, Krieger, McDermott, and Farmer. Mr. Farmer is again in charge of CLE and anticipates providing 12 CLE hours, including panels on insurance and P&I issues, with London participants; on arbitration; and with in-house counsel participants.

The Board was pleased to conclude that the Bermuda meeting promises to be an excellent success.

Spring 2016 New York Meeting with CMI

Mr. Foley provided an update on the joint MLA/CMI meeting next spring which will be held Tuesday May 3 through Friday May 6, 2016. He reported that registration fees would allow a cafeteria-style choice for social events with an open door policy to attend joint MLA Committee/CMI International Working Group meetings. As well, he noted the MLA Young Lawyers Committee will coordinate its activities that week with CMI's Standing Committee for Young Lawyers.

Fall 2016 New Orleans Meeting with Tulane Admiralty Law Institute ("ALI")

First Vice President Watson reported on continued plans for the joint meeting with ALI Tuesday October 25 through Friday October 28, 2016. He noted that dinners were planned Thursday night at Galatoire's Restaurant and Friday night at the Audubon Tea Room.

Fall 2017 Napa Valley Resort Meeting

First Vice President Watson reported that he had appointed Mr. Farmer to Chair the Napa Valley Resort Meeting Arrangements Committee.

RECENT ACTIVITIES

President Clyne reported he judged the Judge John R. Brown Admiralty Moot Court Competition semi-finals in Charleston on March 20, 2015 and attended the IMO Legal Committee meeting in London, April 14-16, 2015.

ADJOURNMENT

Before adjourning, President Clyne offered his sincere thanks, as did the rest of the Board, to the four retiring Directors, Ms. Newman and Messrs. Anderson, Bell, and Walsh, for their fine service to the MLA.

There being no other business, President Clyne adjourned the meeting at 12:01 p.m.

Respectfully submitted,

/s/ David J. Farrell, Jr.

David J. Farrell, Jr.

Secretary

