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| **Reports of Special Committees** |
| **Source:** MLA **Doc. No.:** 754 **Date:** November 3, 2000  Reports of Special Committees Fall 2000    PRESIDENT DORSEY: Next, Tony Whitman, Chairman of the Arrangements Committee for 2001, and following Tony we will have Ann Miller for Cruise Ships. MR. WHITMAN: Thank you, President Dorsey, officers of the Association, members and guests.    MR. WHITMAN: It is my pleasure to be before a full house today before the end of this meeting to offer you the opportunity to travel not all the way to Singapore, but all the way to San Diego. A year from now the fall meeting will be held at the Hotel Del Coronado in Coronado outside of San Diego, California.    The hotel itself, which many of you may have visited and most of you are undoubtedly familiar with, has just been the subject of a $50 million total restoration and refurbishment, and it is truly glorious. With Bill and Ann Dorsey, your Committee was fortunate enough to travel out there last month for our Arrangements meeting, and we explored every nook and cranny of the ancient Victorian building, as well as the more modern facilities they have. It really is a spectacular site and we are very confident that our meeting a year from now, October 14 through 20, 2001, will be a great success.    We will have a golf tournament on Tuesday rather than Wednesday, which has been the norm in the recent past. So for those of you who are golfers, Tuesday will be your target date. We will not be at Torrey Pines, but for those of you who are interested in that, we will-provided the website can accommodate this-have up and running before the end of the year the ability to punch into the MLA website at mlaus.org, and actually have links to the various golf courses in the San Diego area so that you can make your own arrangements for days other than Tuesday when the actual tournament will be.    There will be sailing and fishing and the usual recreational events.    It is a spectacular site, and it also is a wonderful place for substantive meetings. We have a CLE program planned that will include both a CLE program to appeal to everyone, and sort of an adjunct CLE program for young lawyers which will focus on professionalism and business development, among other things.    We hope that this will be a tremendous success and look forward to seeing all of you and your significant others and families, because San Diego is a tremendous family attraction. There is the zoo, of course; there is the Wild Animal Park; there is Balboa Park; there is La Jolla; there is the beach; there is Mexico, for those who are brave. I hope that we will see you all out there.    The dates are October 14 through 20, 2001. That does include Columbus Day, so for those of you whose firms celebrate that holiday, it is a day you are not out of the office because you wouldn't have been in the office anyway, and for those of you whose children might have that day off, it reduces the time away. I have to say that looking back on experience raising our own children, for those of you who have kids in elementary school, the one thing I regret is that I didn't just pack them up and take them places while they were still in elementary school. Those school days are not as important as days spent with the family in interesting places in the world. I encourage you to do that.    Thank you, Mr. President.    PRESIDENT DORSEY: Thank you, Tony.    (Applause.)    PRESIDENT DORSEY: Just a couple of comments.    The change is, as Tony indicated, a slight change in the scheduling, having the sporting event on Tuesday and then the business meeting Wednesday, Thursday and Friday. That is in response to the questionnaire that was sent out and some of the comments we got back. I think you will see that format repeated in perhaps even a different, slightly different, more truncated format in the future.    What we are trying to do is condense the business portion of the meeting. Those that want to have the sports can come earlier; those that aren't interested in sports can come later in the week and concentrate on the meetings.    The second thing Tony was mentioning about the conversion of the Hotel Del Coronado. Those of you who were there twenty years ago when Reagan was elected, I remember that very vividly, I guess most of you do, as well. The tennis courts were between the hotel and the ocean. They have taken the courts out and they have this beautiful lawn fronting of the hotel and an outdoor restaurant where you can go and sit and watch the sunset and have a delightful dinner. The place is magnificent, it really is.    So I encourage you, even though you may have been there twenty years ago, it is a different feel, it is an even better feel, and we are going to have a great meeting. So I want you to all go.    PRESIDENT DORSEY: So, Dr. Wiswall.    DR. WISWALL: Thank you, Mr. President.    I would take the opportunity to make the membership aware of a couple of decisions that have been taken by the Board of Directors of the CMI American Foundation, Inc.    The first of these is with regard to the Elliot Nixon Prize. The objective of the Foundation in offering the prize has been, all along, to make it a really prestigious legal prize.    The most recent cycle, which was even extended by a few months, has failed to produce both a sufficient number of submissions or any submissions of adequate quality to enable the judges and the Board of Directors to feel that the Prize should be awarded for that cycle. Accordingly, that cycle will close, another will open immediately, and it will close as of the 30th of June 2001. Those who have submitted papers for the Prize in the cycle just closing may rework them, resubmit them, and hopefully stand a better chance of success. The winner will be announced in San Diego and the Prize will either be awarded in San Diego or else in New York at the succeeding spring meeting of the Association.    I urge all of you, please, to "talk up" the Elliot Nixon Prize to young lawyers, and to law students by those of you who are teachers, and try to get more submissions. As to the rules for the Prize, they are available in printed form. I'm going to give them to Glen Oxton so that they will be available on the website; and hopefully, as in the past, they will appear on the back cover of the pending issue of AMC.    The second matter I referred to was a profound decision for the Foundation, and it is that the Directors have decided to change the name. Originally the Foundation was established to support the CMI in its endeavors, and particularly with regard to those of the CMI Charitable Trust.    The CMI Charitable Trust has now attained a capital of something approaching 400,000 pounds, which even with the present rate of exchange is a quite sufficient capitalization for the present aims of the trust. We feel that our attention ought now to be turned to the needs of our own Maritime Law Association and also to the promotion of greater interest in the objectives of this Association; that is the uniformity of maritime law not only internationally, but nationally, as well.    Consequently, I don't want to discourage you from sending contributions to the CMI American Foundation, but you should be aware that they will be applied henceforth to the goals and objectives of the American Maritime Law Foundation, Inc.    Thank you very much, Mr. President.    PRESIDENT DORSEY: Thank you, Frank.    (Applause.)    PRESIDENT DORSEY: Thank you very much. Fred Kuffler.    MR. KUFFLER: Mr. President, thank you; members.    I can't resist saying that between the President's advance preview of my report and Matt Marion's comments, I hope my report actually lives up to the advance billing I have received today.    I stood before the membership two years ago in an inaugural report of this Subcommittee and said that this is a long-term project and you will be hearing through the years quite a lot from this Subcommittee. It is now two years later. I'm here again. Life is only becoming more complicated.    This Subcommittee does serve at the pleasure of the President. I am afraid that as long as it pleases the President to have this Subcommittee, you will be hearing from us.    In support of that proposition, I would mention that during the meeting of the Environmental Crimes Subcommittee, as well as Marine Ecology and the Coast Guard and Navigation Committees, there was a lot of talk about yet another Federal agency beginning to flex its muscle in this area; that is the Environmental Protection Agency. It has taken a look at the Ocean Dumping Act and thinks it is another means of getting after the shipping industry. There are criminal aspects to the Ocean Dumping Act. So, we have another big player in this area.    Turning to the agenda, the highlights of what has been going on:    First of all, members will recall that about 18 months ago President McCormack submitted a statement to the House Subcommittee on the Coast Guard and Marine Transportation in support of efforts to eliminate from criminal prosecutions in this area use of the so-called strict liability statutes; that is, the Migratory Bird Act and the Refuse Act.    I'm very pleased to report that during the summer Senator Breaux in the Senate and a member of the House Subcommittee on Coast Guard and Marine Transportation introduced companion bills which would have the effect of eliminating the use of these two statutes. We are told that there will be no action in the present Congress; but that the bills will be reintroduced in the new Congress. The Subcommittee will be following the progress of these bills and, if appropriate, will suggest to the President steps that can be taken in furtherance of enactment.    One of the ongoing agenda items of the Subcommittee has been consideration of the appropriateness of approaching the Department of Justice, a strategy for that approach, and the timing. At the moment this is a project that is on hold. Once the election is passed and the new Administration is in place, we will take up this issue again.    A third project has been consideration of some sort of a member's guide through this area of the law. Most us are civil practitioners and criminal law is a subject that many of us have not had anything to do with since we had to answer a few questions on the Bar exam. I can tell you for some of us it is a lot longer ago than I care to remember. However, events seem to be overtaking us, and I am going to take this subject up with President Dorsey. But over the last 18 months there have been a number of articles in this area that I would like to bring to the members' attention.    The first, in the Tulane Maritime Law Journal, Larry Kiern published an update on OPA 90 which touches on some of these issues. Dennis Bryant, published an article dealing with ISO and ISM compliance and the effect it may have in this area. Dave Dickman published an article dealing with some of the concerns, particularly the Fourth and Fifth Amendment issues and an exploration of the Coast Guard's broad authority to investigate not only in the criminal area, but regulatory and compliance issues, as well. I understand there will be two articles from the recent Pacific Admiralty Seminar, which will be published in the University of San Francisco Law Journal; one having to do with things that practitioners need to be alert to at the early stages of shipboard investigations, another article dealing with the effect of various compliance programs on criminal proceedings and sentences.    Finally, the U.S. Chamber of Shipping has recently published a quite comprehensive guide in this area. It is not, *per se*, for lawyers, although it is written in large part by lawyers. It is called "The Handbook on Environmental Crimes." It is available from the U.S. Chamber of Shipping. I am in the process of reading it. I commend it to members. It is worth having available.    PRESIDENT DORSEY: Is that finally?    MR. KUFFLER: Pardon?    PRESIDENT DORSEY: Finally?    MR. KUFFLER: Yes, finally.    Finally --    (Laughter.)    MR. KUFFLER: -on October 18th, the Coast Guard published a notice of a public hearing dealing with its environmental agenda for the twenty-first century and called for comments, oral and written. There is a hearing on December 12th. Written comments need to be submitted by December 30th.    In conjunction with the Committees on Marine Ecology and the Coast Guard and Navigation, the Environmental Crimes Subcommittee will put together a statement dealing with environmental crimes and submit it to President Dorsey and the Board with a recommendation that the statement be transmitted to the Coast Guard in response to its call for comments on its environmental agenda. It is certainly a recommendation of the Environmental Crime Subcommittee that this is a great opportunity to put our views before the Coast Guard, and indeed probably a broader audience, in quite a comprehensive way.    That concludes my report. Thank you very much, Mr. President. I apologize for obviously wandering on.    (Applause.)    PRESIDENT DORSEY: Thank you. Fred is an expert in this area of criminalization of pollution issues, and he is going to be one of the speakers on the panel in Tulane in March on this subject.    PRESIDENT DORSEY: And Past President Graydon Staring.    MR. STARING: Thank you, Mr. President and fellow members. The yellow book I hold in my hand here signals the subject of this exhortation.    "American Maritime Cases" was founded under the ægis of this Association more than seventy-five years ago and continues under that ægis today formally. Its constituents are mainly the members of this Association. I think most of the members of this Association need and use it. Most of AMC users are members of this Association.    The publication is no longer limited, of course, to the paper I have in my hand, but is available on-line and CD rom. So, there is a complex of modes, if you will, in which to get it.    The real value of AMC is in the editorial service. It is an editorial service that is manifest in the collection of cases, in the selection, and in the analysis of them. It includes, therefore, more cases, more law than is available in any other source in the field of maritime law. And some judge, whose name escapes me, but it might have been Holmes, said that the law is what the courts do, in fact-    Was it? Yes, Michael Marks Cohen confirms it, it was Justice Holmes-    The law is what the courts do, in fact; and AMC tells you what they do, in fact.    Now, it has never been the purpose of AMC just to put paper on your shelves. And the cost of rendering that service in the three ways I have described is a very high cost and it doesn't get any less. AMC has, therefore, distributed with the President's report that came out recently a questionnaire that was directed to finding out how people use it, and where they use it and in what mode. And we have gotten a good many of those questionnaires back, but not as many as should have been received. And they are needed in order to find out what the spread is between, on the one hand, those who use a personal set of books or a personal CD rom, all the way up, or rather down, to those who go to the public library.    I realize that I'm preaching to the saved here because, of course, most of the people who would come to this meeting, and especially those who are still here at this hour, must be presumed to be saved.    (Laughter.)    MR. STARING: However, I exhort you, when you go home, to exhort the unsaved among your colleagues and friends who may not have returned those questionnaires to get them in to us, or, if they have lost them or want to make comments in any other way on what AMC should be doing, to send them in by e-mail, fax or mail, as you wish.    Thank you very much.    PRESIDENT DORSEY: Thank you very much.    (Applause.) |