|  |
| --- |
|  |
| **Reports (Oral) of Standing Committees** |
| **Source:** MLA**Date:** May 3, 2002**REPORTS (ORAL) OF STANDING COMMITTEES**PRESIDENT DORSEY: Now we'll move on to the Committee and special reports. I would remind those who do come up to give a report to please give the reporter a business card. It really helps them identify who you are.We'll start off with Joe Ahern for a few remarks about the SUA Convention.CAPTAIN AHERN: Liz gave you a nice overview of our efforts on SUA. Let me just say briefly that we're delighted with the status of the United States initiative to review the SUA convention and we very much appreciate Bill and Ray's assistance. When we introduced it last week in London, we had thirty-seven nations that spoke in favor of it. In large part, that's the result of Bill and Ray and other members of the delegation who went around to see the various countries. I'm not sure, and I'm not sure I want to know how they got the support of Iran and Cuba.(Laughter.)CAPTAIN AHERN: The next steps that are over the summer we'll be trading electronic drafts around the world with the delegations who participate and we'll file a report in the fall, in October; and we hope to get a large portion of the Legal Committee's time at the meeting in the spring so we can have a diplomatic conference.We wanted to expand the list of offenses to include bioterrorism, the use of the ship and its cargo as a weapon. We would like to broaden the convention in ways I can't talk too much about yet. We want to make it the basis of maritime cooperation in the war against terrorism more than it is now, just a basis for criminal jurisdiction for offenses against the United States interests.But, again, we very much appreciate the support of the MLA. Thank you.(Applause.)PRESIDENT DORSEY: Thank you, Joe. Joe is too modest, of course. He is the leader of the U.S. delegation at the IMO Legal Committee and has been for a couple of years, and the support that was drummed up is largely through his and the efforts of his assistant, Lieutenant Carolyn Leonard-Cho.This is a big deal at the IMO Legal Committee, this particular project. Secretary General Bill O'Neill usually comes to the beginning of the IMO Legal Committee session and makes a few opening remarks then he leaves and you don't see him for the rest of the session. But, for the first time in my memory, he sat through the entire discussion on the proposed draft protocol to the SUA convention, which gives some mark of its importance in the international world.The Legal Committee will attempt to come up with a Protocol to this Convention in sufficient form for a Diplomatic Conference a year from now. That is a tall order, but I think that a lot of effort is going to go into it and I'm proud to say that the United States is leading this charge and that Joe Ahern is heading it up. If anybody can do it, he can. Thank you, Joe.Now, we'll hear from Michael Sturley.MR. STURLEY: Thank you very much, Mr. President, ladies and gentlemen.When I last reported to you, we on the CMI drafting team were on the verge of completing the draft instrument for discussion at the sixth meeting of the International Subcommittee in Madrid.In Madrid, there were a few significant changes to the draft, a couple of which in particular were not welcomed by this Association. Fortunately, the purpose of the CMI draft was to form a basis for discussion within the U.N. Commission on International Trade Law (UNCITRAL). Although the U.S. Maritime Law Association was displeased with some of the conclusions of the Madrid session, alternative drafts were nevertheless included in the final report that went forward to UNCITRAL.The CMI was working under tremendous time pressure here. After the Madrid meeting, we had about two weeks to finalize the draft instrument, get it approved by the CMI Executive Council, and forward it to UNCITRAL so that they could translate it into all of the UN languages for distribution in time for last month's first UNCITRAL meeting to discuss the draft.Now that the project has moved forward to the UNCITRAL stage, Pat Bonner is very happy that I'm now on the State Department budget rather than the MLA budget, saving the Association a bit of money. Chet, George, and Vince are continuing as advisors to the U.S. delegation, as well.The UNCITRAL meeting, starting on April 15th and continuing through a week ago today at UN headquarters here in New York, was very successful, I believe. We started by focusing on a number of big-picture questions and then began going through the draft chapter by chapter. I have not yet finished going through the draft. That process will continue in Vienna in September with another one-week session.Thus far, the CMI draft has been questioned and criticized on a number of issues. But the draft remains the basis for discussion and will continue to remain the basis for discussion at least for the foreseeable future. So the project is proceeding very much as we hoped it would.I think we are cautiously optimistic that some of the those changes in Madrid with which we were displeased may end up being resolved during the UNCITRAL process.We do need to remember that when the United Nations gets involved, it's not a sprint; it's a marathon. But the process is going at record pace for UN activities and we are all, I think, very pleased at how well things are going thus far.Thank you very much.(Applause.)PRESIDENT DORSEY: Thank you, Michael. It's a real tribute to Michael Sturley's talents to see how he has gone from being a really primary drafter of our COGSA bill, then being the rapporteur for the CMI conference, and now being the lead player in the U.S. delegation on UNCITRAL. Everybody relies on Michael, and we sure have, as I have, believe me.Bob Connor will follow up with the Carriage of Goods Committee.MR. CONNOR: Good morning.Michael has told you most of what we discussed at our meeting on Wednesday. Our Committee also did some review on the Title 28 draft and sent those remarks off to the main Committee.One of the issues that has come up and we will be looking into is with the drafting of the new transportation law convention, whatever it ends up being, there is always the possibility of how far afield will it go from what the MLA had originally recommended. What we're going to try to do is get copies of drafts available to everybody who is a member here by putting it on the website sometime this summer so you can download the different drafts, take a look at them. Our Committee will be looking at them again in the fall to see where things are going and whether this Association as a unit wants to make any recommendations other than what our member delegates are doing for us.Other than that, there is not much else to say. There still is a bill sitting in Washington without a number gaining dust. It is still what we started as COGSA '96, '98, 2000, 2002. Hopefully what we started will come to fruition. The dates I hear are 2005, 2006. It's longer than any of us thought. Hopefully we'll also be practicing law at that time. But that's about all I have to say this morning.See you all tonight.PRESIDENT DORSEY: Thank you, Bob(Applause.)PRESIDENT DORSEY: Jim Moseley for ABA, and after that George Chandler on the UCC Article 7.MR. MOSELEY: Good morning. Just a few comments.We had a meeting yesterday, but that will be the subject of a written report which you will have the opportunity to read.Two items that are of interest to you and may well require some action by you: The House of Delegates finally passed after two sessions the model Code of Professional Conduct. It's about the size, including the commentaries, of one volume of a Manhattan phone book. But I want to point out to you the part that is significant to us. Rule 7.4, particularly for the States that have not adopted any designation rule, states as it has in the past that Admiralty is a specialty.The direction of this Association, as an affiliate, is to make sure that admiralty as a body of law is recognized in the same way that the designation of patent attorneys is. Rule 7.4 would continue the status quo, at least as the ABA model rules, that patent law is a specialty. Those States may designate patent law or admiralty or proctor in admiralty as their designation.Now, in the States where there are, where there is certification, that causes some conflict. However, I mention it to you now so when you go back either to your mandatory Bar Association or to your Supreme Court, that you alert them to this situation. In some States, in the past, when clauses of model rules are at issue, the portion relating to admiralty has been dropped out and only patent lawyers had that designation. So if you are not a certification State, make sure that when the State determinations are made that you at least continue the prerogative that your forbears have had in the past to designate admiralty.Also, if you do have activity from your State or other mandatory Bar, Gray Staring's article in the Journal of Maritime Law that was written about four or five years ago on the issue of certification and specialization is really a must to read, and I commend it to you.Secondly, and more importantly as to what the future brings, in the House of Delegates. You've heard it mentioned before, but multijurisdictional matters that are coming up. It comes up for a vote this August, and work may continue into the following February. It's a matter that impacts us all. The position, Mr. President, of the MLA will certainly be heard because it affects all of us. So with a vote coming up, our Board needs to give as much direction as they can.I thank you for the opportunity. Now you know where the old Past Presidents go, into the land of pasture lands, which is called the House of Delegates.(Laughter.)PRESIDENT DORSEY: Thank you, Jim. Now we will hear from George Chandler.MR. CHANDLER: Thank you, Mr. President.I have been attending the meetings of the National Conference of Commissioners on Uniform State Law on UCC Article 7 on behalf of the MLA, which I'm sure everyone has had at least some passing reference to. It concerns bills of lading and warehouse receipts.We are little concerned with warehouse receipts, but UCC Article 7, since it does concern bills of lading, is of some interest. This is minimal, because, of course, the Pomerene Act in most situations will be involved, and would preempt the UCC.This project started in the early 1990's. The review has been going in fits and starts, but it has finally gotten serious.My main involvement was because of the electronic commerce aspects. There's a possibility that if this thing could be done in any significant overhaul it could be a basis for a change in the Pomerene Act. Because of the direction it's headed, I don't see that will be happening.It's a fairly minimalist effort to update it. The mantra is if it's not broke, don't fix it. That applies, as well, in some areas of the UCC, such as Article 2, where there is a lot of activity, however, in Article 7, virtually no activity or cases can be found on many of the issues, so it's not a question of whether it's broken; it's a question of whether it can be improved so that people will find it to be useful. Unfortunately, they have passed up the opportunity.In terms of electronic commerce, it's a little more than the functional equivalence update. It's very light on that, so it doesn't provide much in the way of guidance. I just don't see that this thing in its final appearance will affect us very much, or be the basis to revise the Pomerene Act.Anyone who is interested can access the current draft on the MLA website, and when the next draft, which last weekend we just went over in St. Louis, becomes available, I'm sure we'll be able to put it on the library section of the MLA website, as well.This project is another year or two in the making. Then, we hope, there will be an end in this process and we'll have a product that you can reference when and if you need it. But for the most part, I don't think many of us will need it at all.Thank you.(Applause.)PRESIDENT DORSEY: Thank you, George. Gordon Schreck for Carrier Security.MR. SCHRECK: Thank you, Mr. President. Good morning.The Carrier Security Committee met yesterday afternoon with record attendance, Mr. President, of 15 members and guests.Unfortunately, the events of September 11th and the increased emphasis on carrier security have provided our Committee with a expanded and challenging agenda. Just within the last six months we've seen the formation of a new Transportation Security Administration and the dismantling and presumably restructuring of the Immigration and Naturalization Service.We have also seen the introduction in Congress of two major pieces of legislation on maritime security, legislation which if implemented would significantly impact U.S. port facilities and vessels calling in U.S. ports in the area of maritime security. One of these, the Hollings and Breaux Port and Maritime Security Act of 2001, has already been reported out of the Senate and it is presently before the House. Another which was just introduced a week ago in the Senate is the Ship, Seafarer and Container Security Act, which is likely to get active attention from Congress in the next couple of weeks.We've already heard from Captain Ahern that the international shipping community is considering a major overhaul in the maritime security procedures. Among the measures being considered that would directly affect vessel operators in the area of security are proposed automated identification systems for vessels; the requirement for an on-board ship security plan, in addition to about four other plans that the ship has to have on board these days; the designation of a ship security officer; and a universal seafarers' ID system.Our Committee intends to closely monitor these new initiatives and to liaise with the several other Committees that are either directly or indirectly involved with maritime security issues. We also intend to continue our ongoing effort to bring uniformity to the implementation of enhanced security procedures by various governmental agencies, such as the INS, Customs, and Coast Guard, in the various ports in the United States so vessel operators are hopefully playing by the same rule book.Thank you, Mr. President.PRESIDENT DORSEY: Thank you.(Applause.)PRESIDENT DORSEY: Dick Brown, and after Dick Brown we'll have Michael Marks Cohen for the CMI.MR. BROWN: Good morning.The Committee on Classification Societies was formed about seven years ago in connection with the CMI Joint Working Group on classification society duties, liabilities, et cetera. So we have been monitoring the Joint Working Group.The Joint Working Group came out in 1998 with principles of conduct which were agreed to by the CMI assembly; and then they in May of 1999 came out with principles of liability, which were agreed to by the CMI assembly, but left out any specific provisions as to limitation of liability or who might assert liability against a Class Society, two minor omissions.The parties engaged in the negotiation of the Joint Working Group, were IACS, the International Association of Classification Societies, and various shipowner groups which were unable to agree on those items and finally essentially agreed to disagree or at least to leave them open.In December of 1999 the Erika casualty occurred, which you may recall was a large and unpleasant oil spill off the coast of France that aroused the interest of the European Union. So the European Union decided to get into the act. The Joint Working Group decided to see what the European Union would come up with as a result of their inquiry.This past December the European Union issued a directive dated December 19, 2001, which set forth requirements between the maritime administrations of the individual countries of the European Union and the organizations (which were class societies) delegated to inspect ships and so forth.As far as liability was concerned, the directive requires that the countries enact legislation to the effect that in the event the country's administration is held liable, it would have a right of action against the Class Society with the following limits or provisions, whatever you want to call them. If the Class Society is guilty of willful misconduct or gross negligence, it can be held liable to the administration without limit.As far as personal injury or death is concerned, for simple negligence, the Class Society can be held liable also to the maritime administration. There's a provision that the individual countries may impose limits of liability, but the limit should be no less than 4 million Euros, which is about $3.6 million. The same sort of thing applies to property damage, except that the suggested limit is at least 2 million Euros, which is about $1.8 million.I understand from Frank Wiswall that several countries have enacted legislation in compliance with the directive. Such legislation has to be enacted by 22 July, 2003, so we have got about a year or so to go. We'll see what happens with regard to that.Meanwhile, the CMI Joint Working Group is sort of in limbo at the moment. I think there has been a meeting since the European Union acted; and I understand again from Frank Wiswall that the CMI stands ready to assist in any agreement if the parties reach the point where it looks like agreement is likely.So that is where the CMI Joint Working Group stands, and that's where the classification society liability with regard to possible negligence stands.Thank you very much.PRESIDENT DORSEY: Thank you, Richard.(Applause.)PRESIDENT DORSEY: Michael Marks Cohen for the CMI.MR. COHEN: Thank you, Mr. President.The Comité Maritime International is the international organization of Maritime Law Associations. It is focusing its work primarily on issues of transport law and revision of the York-Antwerp rules.Substantive work of this Association in connection with CMI activities is allocated to other Committees within the Association. The CMI Committee is really just a coordinating committee.The CMI is scheduling a colloquium in Marseille in June of 2003, and a plenary session in Vancouver in June of 2004. For sure, issues of transport law and general average will be discussed at those meetings.You will hear more about the agendas. Hopefully they will be beefed up with some other topics that will be of more general interest to the members of the Association. We'll see if we can't work out some advantageous travel arrangements as we did in connection with Singapore.Thank you.(Applause.)PRESIDENT DORSEY: Thank you, Michael. Michael Unger for the Committee on Cruise Lines and Passenger Ships.MR. UNGER: I am pleased to report that yesterday we had our meeting and we had 32 members. I am also pleased to say that we were joined by guests Captain Ahern and Lieutenant Leonard-Cho, who gave us an update as to the ongoing efforts to amend the Athens Convention, which our Committee is following quite closely.We also spoke of some new developments in respect to FMC performance guarantees and some significant cases involving the ADA and how they may apply to cruise lines. We're continuing to follow those issues which affect the cruise lines and passenger vessel operators.Thank you, Mr. President.PRESIDENT DORSEY: Thank you, Mike. The new Chair of this Committee is going to have some work because there is the diplomatic conference coming up in October on the Athens Convention, so this Committee is very much concerned with that. Thank you, Mike.(Applause.)PRESIDENT DORSEY: David Farrell for Fisheries.MR. FARRELL: Good morning.The Fisheries Committee has met twice since our gathering in San Diego last October. In November, Steve Johnson, Bruce King and I presented papers at the National Fisheries Law Symposium sponsored by the University of Washington. In conjunction with that CLE, we held a Committee meeting in Seattle seeking input from the maritime bar and fishing industry officials from the Pacific Northwest.We're interested in possibly revising some provisions regarding maritime liens as they appear now in the Magnuson-Stevens Fishery Conservation and Management Act, which is up for reauthorization in the coming year.At yesterday's meeting we continued that discussion and we addressed, as well, the Lender Amendments to the American Fisheries Act of 1998, which you will recall last year this assembly endorsed under Bill Birkhead's unanimously adopted motion.At yesterday's meeting we were grateful that Pat Wiese, acting chief counsel for MarAd, was able to talk with us, in an informal fashion, about proposed rule-making to implement the Lender Amendments.We're going to be following these developments in the coming months.Thank you kindly for your attention.PRESIDENT DORSEY: Thank you, David.(Applause.)PRESIDENT DORSEY: Sam Menefee, International Law of the Sea.PROF. MENEFEE: Thank you.The Committee on International Law of the Sea met Wednesday at the South Street Seaport Museum, and by unanimous vote we want to thank you, President Dorsey, for your assistance to the Committee.We discussed continuing reorganization of our Subcommittees into four overview Subcommittees and a number of others dealing with substantive topics.The overview group would include the Subcommittee on the Law of Sea Convention and Other International Agreement; the ICJ and the International Tribunal on the Law of the Sea, Foreign Decrees and Legislation and Customary Law and International Incidents.The substantive Subcommittees, depending upon member interest, would deal with Offshore Exploration, Piracy and Maritime Crimes of Violence, Marine Mammals, Illegal Immigration and Defense and Naval Warfare. It was suggested that insurance might expanded to include security and might be a joint subcommittee, along with overview by other Committees in the Association, as might a Subcommittee on Marine Archeology. Finally, the Temporary Subcommittee on the Oceans Policy Commission was noted.It was reported that an agreement implementing provisions of the 1982 Convention on the Law of the Sea Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks went into force on December 11, 2001.There were also elections for the Commission on the Limits of the Continental Shelf and the International Tribunal of the Law of the Sea. One case that has come before the tribunal since our last meeting is the *Mox Plant case, Ireland v. The UK*, which deals with transportation of and processing of nuclear waste. This has been submitted to an arbitral tribunal under Annex Section VII of the Convention.The CMI Executive Committee has now endorsed the revised version of the Joint International Working Group's Draft Model Law on Piracy and Maritime Violence. There were 335 reported attacks or attempted piracy over the year 2001, which is down from 469 for the previous year. The number of hijacks, however, doubled from 8 to 16.The Committee also considered UNESCO's action on the Convention on the Protection of Underwear Cultural Heritage, as well as the meetings of the Oceans Policy Commission. There has been agreement so far that the United States should ratify the 82 Convention, and the Committee hopes to keep abreast of future develop.Mr. President, that concludes my report.PRESIDENT DORSEY: Thank very, Sam. Lisa Reeves for Limitation of Liability.MS. REEVES: Good morning, everyone.Our Committee has been and continues to work with Dennis Bryant on the Title 46 recodification project as it affects the Limitation of Liability Act. We want to ensure that the changes are only stylistic, which is the intention, and any changes which are adopted do not make any change in the substantive law.At our meeting Wednesday, as always, we identified and discussed recent cases dealing with limitation of liability, the most important of which is the *Ali B*in which the Eleventh Circuit held that the Park System's Resources Protection Act trumps the Limitation Act. The Park Act protects marine sanctuaries, and the United States pursued a claim against the owner of a tug and barge which grounded and did substantial damage to a coral reef. Unlike OPA and other statutes, the Park System's Resources Protection Act doesn't contain a provision which precludes the application of the Limitation of Liability Act to liability under that statute. The Court nonetheless held that the two statutes were in direct conflict insofar as the Park Act contemplates the United States being made whole for resource damage and recovery efforts, *et cetera*, and the Limitation Act would limit that recovery.Second, the Court also found that because the Park Act was a strict liability statute, the Limitation Act was not applicable.Third, the Park Act contains both *in rem* and *in personam*remedies, and the Court felt that the Limitation Act's applicability would or could eliminate the *in personam* liability of the owner.Finally, there was an extensive general policy discussion that the Limitation Act had outlived its usefulness, and should be narrowly interpreted as a result.There is a very well written concurring opinion which articulated the view that the majority had gone too far and made a very sweeping opinion. The concurring judge would have limited the rationale to the fact that strict liability statutes, like the Park Act, prohibit application of the Limitation Act. I would commend that case to you.We now have a volunteer, Dana Henderson of Cozen & O'Connor in Seattle, who will help draft our newsletter, so we hope that at the next meeting we'll have a newsletter to present to you and also to put on the website.Finally, I just want to mention that this afternoon at 2:30 here in this room there will be a presentation by Professor John Paul Jones of the University of Richmond Law School on the topic of "When Limitation of Liability Laws Conflict," and I would encourage everyone to attend.Thank you very much.(Applause.)PRESIDENT DORSEY: Thank you, Lisa. Lisa is going to be doing double duty for the Association in the next few months, because the next Board meeting that we're going to have is going to be in Philadelphia in August and Lisa is in charge of making the arrangements for that.Thanks a lot for all your work.(Applause.)PRESIDENT DORSEY: Sandy Knapp for Marine Finance.MS. KNAPP: Ladies and gentlemen, thank you for giving me a moment here. I decided, since I'm now wearing bifocals, I have joined the ranks of Senior Proctor in Admiralty, so bear with me here.PRESIDENT DORSEY: You are in good company.(Laughter.)MS. KNAPP: We once again have been very active. Since the October meeting we have had several things going on.First, we have been involved in several MLA projects with other Committees, namely, the Title 46 recodification matter. Marjorie Krumholz has been spearheading our efforts in that.The multijurisdictional practice project, Christy Helmer from our Committee has been following that. Proposed Rule G regarding civil forfeitures also has been followed closely by Charley Donovan. Both projects required a lot of work.We have also been monitoring several regulatory and statutory initiatives that affect our Committee. I point out the U.S. Coast Guard regulations regarding foreign leasing companies and MarAd's proposed lender regulations, which you already heard about briefly regarding the American Fisheries Act. The Coast Guard Authorization Act and, in particular, as I have mentioned before, the ability to file notice of claim of lien even though a mortgage is not recorded of record with the Coast Guard. Also, the Coast Guard has requested comments regarding what it means to be sold foreign. Our Committee members Bob Poster, Steve Johnson, David Williams and Charlie Brown, have all worked on several of these matters, and I appreciate their help. It's impossible for me to follow everything.We also, as Liz mentioned, worked with President Dorsey on preparing a letter to the Coast Guard asking them to focus on several initiatives that we've been working on for years closely with them, which have been languishing, but the Coast Guard's emphasis is rightfully on security issues. So we will have to wait to fix some of the problems that we have noticed over the years.We have also followed the UNICAL Convention and the security interests of mobile goods. We need to step up our efforts in that area. We appointed a new Chair of our Subcommittee on Coast Guard Documentation and U.S. citizenship matters. Tom Whalen will replace Bob Poster.I want to take this chance to publicly thank Bob Poster, who has done an excellent job on this very active Subcommittee, and I really appreciate all his help.I just want to mention that at our meeting on Wednesday we had several guests attend. They spoke to us.In our continuing efforts to review other flags, the Cayman Islands came and addressed our group. Peter Gibbs and Professor P.J. Mukherjee came and gave us information on new things going on with the Cayman Islands.We also unanimously endorsed the concept that there should be a separate Rule G to handle several forfeiture cases.Finally, I want to personally thank President Dorsey and also on behalf of our Committee for his leadership and guidance. Thank you very much.PRESIDENT DORSEY: Thank you, Sandy.(Applause.)PRESIDENT DORSEY: That Committee, you can tell, has all sorts of matters on its plate and a lot of people are involved. Sandy Knapp is a worthy successor to past Chairs of that Committee, like Charlie Brown and Dave Williams. So, it's still in very, very good hands. Fred Kuffler, then Jean Knudsen for Marine Insurance.MR. KUFFLER: Good morning, Mr. President, Board members, members and guests.I should begin my remarks this morning by directing them to President Dorsey. You see this morning, Mr. President, that I'm here without any notes, which means my speech will be very short and you will not, as you had to last year, flash the appellate red light at me. Now, although the report-PRESIDENT DORSEY: You notice I didn't call on you at the end of the meeting.MR. KUFFLER: That fact has not escaped me. Although the report is brief this morning, I'm very happy to say that it is, I think, a very affirmative one.Members will recall that since this Committee was formed, at every meeting I stand up here and say this is a difficult problem, it's going to take a long time to deal with it, and, well, it has and it has not gone away. However, I think we are now at a very important and significant point in the work of this Committee.After three years of what has been really preparatory work, with the ultimate objective being to find a way to sit down with the various agencies that are involved in these environmental criminal issues, principally the Coast Guard, very importantly the Department of Justice, and increasingly the EPA, through the very timely and able assistance of Captain Ahern, we have now scheduled a meeting for June 5th.Initially, my inquiry was whether the Coast Guard would have any interest in talking to us. Captain Ahern said yes, and then has managed to include representatives of the environmental crimes section of the Justice Department and some criminal enforcement people from the EPA.This is a big step for us. It is an opportunity to put forward the Association's views and concerns, and I very much hope that it will be the first step in establishing an ongoing dialogue with the agencies.That concludes my report. I thank you, Mr. President.PRESIDENT DORSEY: Thank you, Fred.(Applause.)PRESIDENT DORSEY: It is a big step. We have been talking about this for quite sometime and, Fred, thank you very much for helping us in that regard. We really appreciate it. Jean Knudsen for Marine Insurance, and following Jean will be Don Kennedy for Maritime Arbitration and Mediation.MS. KNUDSEN: Good morning, ladies and gentlemen.The Marine Insurance Committee meetings were held on Wednesday and our meetings were well attended and there were quite lively discussions.We reviewed various ongoing projects, including the issue of the CMI's proposed revision to the New York-Antwerp rules. John Woods is making assignments to accomplish our next project, which is an annotation on the hull policy; so, if anyone is interested in participating, please contact John Woods or myself. John will be happy to give you an assignment, if you would like to volunteer for us to work on it.We're very happy to report that we have concluded our work on the debris removal project and will be submitting it for publication very shortly. I would like to thank Kim Kearney, Steven Belgrade, Tom Lynch and Brett LeBreton for their excellent work.Our newsletter is available in the foyer and I urge you to take a copy.This will be my last year as Chair of the Marine Insurance Committee, and I just would like to thank everyone, Bill and Howard and Ray, for the opportunity to serve as a Committee Chair. It has been a wonderful experience.I particularly want to thank Gene George for all of his fine work as my Vice Chair. I'll be succeeded by Steve Rible, and I know he will be excellent.Thank you, Mr. President.PRESIDENT DORSEY: Thank you, Jean.(Applause.)PRESIDENT DORSEY: I can't tell you what a pleasure it was for me to work with Jean Knudsen. She's a very valuable asset to this Association, and I know she's going to continue to be. Don Kennedy for Maritime Arbitration, and then after Don we'll have John Schaffer for Maritime Personnel.MR. KENNEDY: Thank you, Mr. President.The activities of the Committee in the past few months have focused on two issues; one is a BIMCO clause which is a combination arbitration-mediation clause. At our meeting this week Keith Heard made a presentation and dissected the clause and explained it for the Committee.The second issue has been the CMI draft instrument as it relates to private carriage, the issue being whether private carriage or carriage by charter parties is included or excluded from the convention. We had Jay Paré and Chet Hooper make a presentation at the meeting on Wednesday and we discussed that issue. I expect that we will continue to look at that issue.Finally, I have been involved with the Department of State as a member of the delegation to the UNCITRAL Convention that relates to the New York Convention, the issue being, as I've said for the last three years, the Article 2, Subpart (2), the agreement and writing provision and how that applies. We're making progress very slowly.Thank you, Mr. President.(Applause.)PRESIDENT DORSEY: John Schaffer, and then Dennis Bryant up next.MR. SCHAFFER: Good morning, Mr. President, good morning everyone.The Maritime Personnel Committee met yesterday at 2:00 p.m. and we had 41 members and guests participate in a lively conference.We discussed the IMO/ILO *ad hoc* expert working group report on liability and compensation regarding claims for death, personal injury and abandonment of seafarers.We also discussed the U.S. government's project on the recodification of 46 USC, as well as punitive damages and how it affects our business, as well as all of the businesses in the United States.We also talked over tort reform, including the September 11thVictims Compensation Fund and several significant decisions from all around the USA involving issues that are facing vessel owners, employers and claimants.We welcome suggestions from the Association for new and interesting projects. We are always looking for new members of our group and significant decisions.Thank you very much.PRESIDENT DORSEY: Thank you, John.(Applause.)PRESIDENT DORSEY: Dennis Bryant, and after Dennis will be Jim Bartlett for Practice and Procedure.MR. BRYANT: Thank you, Mr. President.The Navigation, Coast Guard and Government Regulations Committee met Wednesday afternoon. We were honored to have Captain Ahern and Lieutenant Leonard-Cho join us. The Coast Guard was represented as always.This was the first time that we also had representation from both the Maritime Administration, Pat Wiese, the acting chief counsel, and also the Federal Maritime Commission, David Miles, the acting chief counsel of that agency, were present and provided us with very good reports on current activities of those two agencies that are important to our clients. We have also now invited the Military Sea Lift Command to participate. They have agreed. I have it on good authority that Bill Storz, our MLA member, will be the MSC representative for the future.We had lively discussions on port security, criminal liability, and Coast Guard initiatives on such things as oily water separators and record-keeping.The Coast Guard made it very clear that they are going to be scrutinizing the official mandated records, such as record books, logbooks, advance notices of arrival, and if they detect known material misstatements in those reports and documents, they are going to prosecute. So stand by: It's important.At President Dorsey's request we have formed a new Subcommittee on Maritime Security and I'm pleased to report that Jeff Moller over here has agreed to serve as the Chair of the Subcommittee. Anyone who is interested in assisting in that effort, please see Jeff or myself.Maritime security is today what OPA 90 was twelve years ago. It is the hot button issue. There is a lot going on and it's going to impact our practice and our clients' operations for the foreseeable future. So to the extent that you get in on the ground floor, here is your opportunity.I would also like to give my report on Title 46 codification at this time, also. The effort continues. Tom Herlihy, the assistant general counsel for the Department of Transportation for Legislative Matters, is the leading force in that codification effort and has been very appreciative of the MLA's input and has adopted virtually everything that we suggested. He now admits that his initial time-line was quite optimistic and recognizes this as a multiyear effort. So we will continue to have a chance to provide input to all of the various considerations, and I'm sure that he will continue to receive our comments very graciously and adopt them as appropriate. So, please, for the various Committee Chairs, please continue to submit your inputs, and for those who wish to participate on an individual basis, you're more than welcome.One final item: I understand there are a few people in this room who are not yet getting enough e-mail, and for those of you who need one more item in your in basket in the morning, please see me. Give me your card with your e-mail address and I will see that is taken care of.Thank you.PRESIDENT DORSEY: Thank you. He's the man for the job.A comment about the Subcommittee that we're appointing under Dennis: The question of security, of course, has to do with stevedores, terminal operations, carrier security and container security. I think we need one centralized focal point for these issues. Other Committees should cross-pollinate with this new Subcommittee on the larger overall topic of maritime security.Next we will have Jim Bartlett for Practice and Procedure. I think, Jim, you have an action item for us.MR. BARTLETT: I do.The Practice and Procedure Committee met on Wednesday morning, and we discussed various topics, but I will leave most of those for a written report.What I would like to report to the membership on is proposed Supplemental Rule G. This is an effort spearheaded by the Department of Justice Assets Forfeiture and Money Laundering Office, and I reported on this in San Diego, that we would be monitoring this effort, but that we would not be taking part in the formulation of Rule G itself; although, because of the nature of Rule G and the fact that it was proposed or is proposed to be a supplemental rule, we would be monitoring it particularly with respect to its effect on Rules A through F. Proposed Supplemental Rule G is being proposed, as I said, by the AFMLO office, and attending our meeting was Stefan Cassella of that office.The reason for this proposed rule is that while various forfeiture statutes refer to the supplemental rules as governing their procedures, there is no one place that forfeiture people can go to find out how to do what they need to do. It is difficult to address it in any other way other than to do it in the supplemental rules because of the various statutes. So the proposed Rule G is thought to be the solution. The intent is to put all of these forfeiture procedures in one Rule G, and there are also changes to A and F.After discussions both at San Diego and on Wednesday, the Committee decided that it would take a position and make a resolution to the membership. Now, the reason is that Mark Kasanin, who is on the Advisory Committee to the Federal rules, advised the Committee that the Advisory Committee would like to know what the MLA's position is with regard to proposed Supplemental Rule G. Our position was that while we generally favored G and its implementation, we also wanted to make it clear that Rules A and F would be entirely separate from Rule G, and Rule G entirely separate from the procedures set forth in Rules A through F.Consequently, the Practice and Procedure Committee passed unanimously, with two abstentions, the following resolution to be presented to this membership for approval by the membership:RESOLVED that the Maritime Law Association of the United States recommends to the Advisory Committee to the Judicial Conference Standing Committee on Civil Rules that the following changes be made to the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure for the United States District Courts:1. A Supplemental Rule G be formulated and adopted that deals exclusively with civil forfeiture procedures pursuant to Federal statute;2. The title of the Supplemental Rules be changed to "Supplemental Rules for Admiralty, Maritime and Forfeiture Claims";3. Supplemental Rule G or the Advisory Committee Notes to Supplemental Rule G state that the provisions of Supplemental Rule G do not apply to admiralty and maritime claims and that the procedures set forth in Supplemental Rules A through F do not apply to civil forfeiture procedures pursuant to Federal statute; and4. Conforming amendments to Supplemental Rules A through F be adopted to implement paragraphs 1 through 3.Mr. President, I move the adoption of this resolution.PRESIDENT DORSEY: This resolution also has the unanimous approval of the Board at yesterday's meeting. Is there a second?(A chorus of seconds.)PRESIDENT DORSEY: Any discussion?(No response.).PRESIDENT DORSEY: Ready for the question? Charley Donovan.MR. DONOVAN: Thank you, Mr. President.As Chair Sandy Knapp indicated, I've been appointed by the Marine Finance Committee to monitor Rule G, and Mark Kasanin has also asked me, along with Phil Berns and Bob Zapf, to sit on an *ad hoc* committee to advise the Rules Committee on Rule G. I wanted to rise to bring up one, and so far as I can tell, the only point of disagreement that has arisen with regard to Rule G.I think we're all agreed that it's time to divorce forfeiture from maritime risks. The only question is whether the maritime arrest and forfeiture arrests will remain friends afterward.One view that I think Bob Zapf espouses is that the two should not meet any further and there shouldn't be any communication between the two.My own view is that a substantial body of precedent has developed in the forfeiture and maritime arrest area and the two should be allowed to communicate.The draft as presently espoused by the Department of Justice provides that to the extent Rule G does not expressly so provide, Rules A through F shall continue to apply in forfeiture actions. That's a point on which Bob and I disagree. I think that's a good provision; he thinks it should be taken out.I just want to make sure what we say here today, what we adopt here today doesn't put an end to that controversy. It's one I expect will be something which we will solicit the views of Committees and members of this Association on as the drafting process goes forward.With that comment, Mr. President, I would urge the adoption of the resolution.Thank you.PRESIDENT DORSEY: Thank you, Charley, and thanks for that clarification.MR. BARTLETT: I would like to call on Bob Zapf, who is the Chair of the Subcommittee of the Practice and Procedure Committee that deals with Federal Rules and Statutes, for a brief rebuttal.MR. ZAPF: I do promise to be brief, Mr. President.PRESIDENT DORSEY: I like these unexpected events,(Laughter.)MR. ZAPF: As Charley ably pointed out, there has been a discussion both within the Subcommittee addressing this particular issue, and in the Advisory Committee, as to whether or not the new proposed Rule G should incorporate Rules A to F to the extent not inconsistent with Rule G.The biggest concern, and the debate has centered around the fact that, as Rule G was drafted by the Department of Justice, it had to incorporate language that was put into the Civil Asset Forfeiture Recovery Act of the year 2000. That language utilized the words "claim," "claimant," "claim of owner," that this Association had decided to eliminate in the context of Rule C; and thus the changes that went into effect in December 2001 to the Admiralty Rules have now been reincorporated into the proposed Rule G.The reason that we had decided to eliminate those words from Rule C was because in the context of forfeiture proceedings, they had different meanings, they resulted in different time frames for the assertion of rights, different notice provisions.My biggest concern and that of those who are in favor of a total divorce, is that we do not want to have the effect of decisions in the forfeiture context flowing back into the admiralty as they had started to do, which generated the reason for our desire to change these things in the first place. As the Department of Justice pointed out, there are 30,000 forfeiture proceedings a year which are commenced by the various Federal agencies that have forfeiture powers. Of those, 3,000 cases go to court, and there are 20 decisions a month that come out in the forfeiture context.The biggest concern I have is that with that volume of forfeiture law generated, if it relates and is incorporated into Rules A to F, we will find out that forfeiture will be wagging the tail of *in rem*proceedings in admiralty cases rather than the other way around, which it was originally intended to do. So those are the reasons why there is this dichotomy of views existing, and it will continue to be discussed. The wordings of the rules will undoubtedly change as the drafting process goes on.I just wanted the Association to be aware that the reason why I at least am in favor of a complete divorce is to preserve the pure admiralty *in rem* proceedings as separate and distinct from forfeiture proceedings, and yet also at the same time accomplish the goal of providing those engaged in forfeiture practices with a single source, single place to go to determine what the procedures are with respect to forfeitures.Thank you very much, Mr. President. I'm sorry for the surprise.PRESIDENT DORSEY: I'm always delighted to hear from you, Mr. Zapf.MR. BARTLETT: I would call the question.PRESIDENT DORSEY: I think that's my job. Are we ready for the question?A VOICE: I rise to make a motion to table, in view of the dichotomy of views, until it can be aired sufficiently.PRESIDENT DORSEY: Well, the impression I got was there isn't any debate about *this* Resolution, and Charley Donovan actually supported it, so I'm not sure that there is really any need for a motion to table. But I guess you made the motion, unless you want withdraw it.Is there a second?(No response.)PRESIDENT DORSEY: Failing a second for the motion, the motion to table fails. This is fun on the last day, you know.(Laughter.)PRESIDENT DORSEY: So I will now call the question. All in favor of the motion say aye.(A chorus of ayes.)PRESIDENT DORSEY: Opposed?(No response.)PRESIDENT DORSEY: The ayes have it. The motion is carried. The resolution is adopted. Thank you, Jim. You have some more?MR. BARTLETT: That concludes my report.(Applause.)PRESIDENT DORSEY: Next is Howard McCormack. John Kimball will follow.MR. McCORMACK: Mr. President, fellow officers, members of the Board and members of the Association, I stand before you today to report on the issue of the CMI and its policy and anticipated possible changes in the Antwerp Rules. This came about as the result of a meeting in Singapore on the GA aspect where there was a resolution that the CMI would continue to work towards consideration of the possibility of whether or not there would be changes in the 1994 New York-Antwerp Rules.In the San Diego meeting, Jean Knudsen had appointed a Subcommittee of the Committee on Marine Insurance and General Average to address this issue, and I'm the Chair of that Subcommittee.I attended the December meeting of the CMI Working Group in London, chaired by Frank Wiswall. Assisting me at that time attending was Howard Meyerson, who was a fantastic help, as were the other members of the Subcommittee, made up of lawyers, average adjusters, and members of the insurance industry.It was a fairly active meeting. I wouldn't say it was fractious, but there were a lot of discussions about other activities. We put our views forth, which we had done in Singapore.At the December CMI Working Group meeting, I was able to obtain a position on the Working Group. I'm the only non-European on the Working Group, which is, I guess, a surprise to everybody.The Working Group met in March 2002. I was unable to attend due to some other commitments. But Tim Madge, the chairman of the UK average adjusters, was able to attend and presented our views quite well. Various matters came up, and I understand that Richard Shaw, the rapporteur, is preparing some more data.There will be a meeting of the CMI assembly in May, next Friday in London, on May 10th, and Ben Nielsen, the chairman of that Working Group, will report. There is another meeting of the Working Group in Copenhagen in early July. The Working Group consists of a Dane, Hans Levy, formerly at Skuld, a French insurance representative, Ben Browne from Shaw & Croft, Richard Cornah from Richards Hogg, and Richard Shaw, the rapporteur, and, of course, the lonely American, myself.This is going to be something that the CMI will continue to work on. There will be a report of the Working Group sometime after the July meeting.There may well be a dissent as to the potential changes in the Sydney rules. We have only eight years since the Sydney 1994 rules, and the CMI is considering a possibility of changes. I anticipate that will be part of the plenary session in Vancouver. That concludes my report.PRESIDENT DORSEY: Thank you very much, Mr. McCormack.(Applause.)PRESIDENT DORSEY: I might just say, before John Kimball starts, that Howard, of course, goes off of the Board today after serving for some sixteen. I'm advised by Jim Moseley, who is the curator of information such as this, that there is no one who has served longer on this Board than Howard McCormack. I think, Howard, you've had just about every job that this Association has to offer. Of course, since he's run out of jobs here in the Association, he's gone on to other organizations and become president there. But, as he indicated two years ago when I took over from him, Howard is neither gone nor forgotten. Howard, thank you for all your service to this Association.(Applause.)PRESIDENT DORSEY: Now John Kimball, and Pat Cooney will be up next.MR. KIMBALL: Just speaking selfishly from the standpoint of Healy & Baillie, we'll be happy to have more of Howard's time in the office.(Laughter.)MR. KIMBALL: I have been very fortunate to serve as Chair of a Study Group dealing with a UNESCO Convention on the protection of underwater cultural heritage. This deals basically with shipwrecks and sunken treasure, a topic which continues to be of worldwide interest.Unfortunately, one of the aims of the Convention is to abolish the application of law of salvage with respect to shipwrecks and sunken treasures, and hence the MLA has had a keen interest in this for a couple of years.We have been working with the State Department and I was a member of the U.S. delegation. I regret to report that UNESCO adopted the Convention at a meeting last November.Although we are not a member of UNESCO, we have observer status in UNESCO. I'm happy to report that the United States stated its opposition to the treaty. The United States has worked very closely with the European countries and other major maritime countries. I also am happy to report that although the convention was adopted by UNESCO, it was not supported by most of the major maritime countries in the world. It's very likely that the convention will enter into force. Only 20 countries have to ratify it, so it is likely that it will enter into force in the countries that ratify it.It seems to me unlikely that it will gain worldwide acceptance. But the United States government remains very interested in the subject, as do most of the major maritime countries. We expect to see quite a bit of activity in this area in the years to come. Whether this will take the form of domestic legislation in the United States, regional agreements, or other diplomatic activity, remains to be seen. The Study Group will remain in place to liaise with the State Department and to see how developments work out. Also, the Commission on Ocean Policies is looking into this topic, as well, and we will establish a liaison with that commission.The final thing I should report is the CMI remains interested and we will be liaising with the CMI to develop a position paper.Thank you very much.(Applause.)PRESIDENT DORSEY: Thank you, John. Just a little history of the development of the UNESCO Underwater Heritage Convention.I first heard about it about four years ago when Howard McCormack was President. He called me and said there's going to be a meeting in Washington in the next three days on the proposed UCH Convention and I want you to go down and represent the MLA at this meeting.I went down cold turkey, walked into the meeting, and was immediately attacked by everybody there who accused me of representing the pirates and looters of hidden treasure. It's come a long way since then, but it was an interesting initiation into the world of underwater salvage and underwater cultural heritage. I'm glad John is going to have to take the slings and arrows.Pat Cooney will be next, and then Josh Force.MR. COONEY: Ladies and gentlemen, central to the function of this organization is the furtherance of the uniformity of maritime law. That's what my Committee is all about. We perform several functions.We closely monitor developments in threats to uniformity among the courts and with legislation.We serve at the direction of the President to screen and comment on applications for *amicus* brief applications, asking the Association to appear principally before the Supreme Court of the United States. We assist in the preparation of those *amicus*briefs, and that's a little bit of what I will report to you on. I'll try not to take too much of Mr. Force's thunder.Our meeting on Wednesday was devoted primary to *Sprietsma v. Mercury Marine*. As you know, this is the propeller guard case out of the State of Illinois. The Federal Boat Safety Act has attempted to authorize the uniform regulation of recreational boats and their appliances nationwide, and that function, regulatory function has been delegated to the Coast Guard. The Coast Guard, after having the assistance of a consultative committee and a great deal of work, decided not to issue a regulation requiring guards on board motor propellers, outboard motor board propellers. The case involved is a state court case involving a wrongful death, and in question is whether the State of Illinois can allow or will allow a products liability case, a design case where the issue of whether the absence of the guard is a defect. It's an interesting situation for us in that this is a case that has not come to the court primarily as a maritime case. As you know, those of you who follow this, there was a previous case that cert was granted, arguments were held and the case was decided. So, we very well may be looking at a situation where the Supreme Court has several decisions already in the can waiting simply to be published.I think principal to us is to preserve those small victories that we have had in the past, such as the *INTERTANKO* case where the Court established that there is not a presumption in favor of preemption where maritime commerce is involved. We indeed believe this is a maritime commerce situation.At our meeting we enjoyed having Josh Force come and talk to us about his ideas with regard to the brief, and I had the pleasure of working with Josh and assisting to get the brief put together, which will be filed on the 20th of May. I think we will attempt to do a good job, and I know Josh will, in representing the Association, protect our interests in uniformity.Just as a personal note, this is my swan song, also, Mr. President. Kim Kearney is going to be taking over and will ably fulfill the post of the Chair of the Uniformity Committee.It has indeed been a huge pleasure and privilege to work in this capacity and to work with President McCormack and President Dorsey and with Liz Burrell, who has been our liaison. It's a fascinating Committee. We may be a little bit ethereal and academic sometimes, but we always think we're on the cutting edge, and it's been great fun.Thank you. That is the end of my report.(Applause.)PRESIDENT DORSEY: Thank you, Pat. I know we are in good hands on that brief. Josh Force gave a report to the Board on that brief yesterday, and as Pat has indicated, he is working with Josh and Don Greenman of the Recreational Boating Committee. It's a fascinating case. I should mention here that there are a number of *amicus* briefs that are being filed on this, including one by the Solicitor General, in which the Coast Guard has joined in. Admiral Duncan and Joe Ahern have signed this brief on behalf of the Coast Guard. They are on the other side of the coin in this case. Usually we agree with the Coast Guard on just about everything, but, Joe, forgive us, we hope we win this one and that you lose.(Laughter.)PRESIDENT DORSEY: So now we hear from Josh Force, and then Frank Wiswall.MR. FORCE: Thank you, Mr. President. I'm actually speaking about the Young Lawyers Committee, which met yesterday. We had in excess of thirty members and guests attending our meeting and were able to combine both study and ongoing Committee business.On the education side, we had a presentation from Bobby Glenn of Savannah on ADR, and Bobby spoke to us about the role of standing neutrals and neutral experts in mediation. Bobby challenged us to think outside the box, and hopefully our members will be able to rise to that challenge in future cases when they're involved in mediation.We also had a special presentation from Mr. Toca Wiersma of Amsterdam, who spoke to us about the role of young maritime lawyers in the Netherlands Maritime Law Association and in maritime law circles generally in that country, and expressed a real great interest in being able to bring some of the ideas that our Committee is discussing right now and some of the functions that our Committee provides to this Association back to his association.On the business side, the Young Lawyers Committee continues to work on a number of projects for various Standing Committees. Right now we're working on in excess of ten projects for various Committees, and I would just like to point out that we continue to have a number of volunteers who are interested in working on even more projects. So, for anyone involved in any of the other Standing Committees, if there are additional projects that you would like assistance on, please let us know. We have a lot of people who are very interested in helping you out.In addition to the projects that we have been working on, we received additional requests this week from the Law of the Sea Committee, Marine Insurance, and also the Fisheries Committee to assist on future projects. So, we look forward to expanding the role of the young lawyers in working with an even greater number of Standing Committees.Finally, we also continue our internal discussions on how to define better our membership and how to expand our membership in addition to making sure that the members of the Young Lawyers Committee continue to become more and more involved in the workings of the Standing Committees and of this Association. We approved revised guidelines to better define our membership and also received authorization from our Committee for the officers to resubmit to the President a proposal that we submitted earlier to have automatic appointment of new members to our Committee.As I've said before, I just would like to conclude by encouraging everybody and really challenging everybody to make sure their young lawyers continue to be involved in the Association so we can build not only our Committee, but also the future of the Association.Thank you very much.(Applause)PRESIDENT DORSEY: Thank you, Josh. I certainly want to second his comments about encouraging the young lawyers to participate in the Association. I think the fact that Josh as a young lawyer is taking the lead oar in preparing a very, very important brief of the Maritime Law Association shows young lawyers of talent who are willing to work will get the opportunity to play important roles in this Association.Frank Wiswall for the American Maritime Law Foundation, Inc.MR. WISWALL: Mr. President, the American Maritime Law Foundation is not moribund; it's in existence, but we have not completed the legal name change in New York from the CMI American Foundation. Among other things, we finance the Elliot Nixon Prize, so if any of you have in mind to make a contribution, please contact me and I will tell you how to do it. Don't "withhold" contributions just because we haven't completed the name change. At such time as that is done, we will have a website. I hope I don't cross any threads by saying that I'm sure it will be linked to the MLA website when the time comes. We're working on that at the moment.Shifting hats to the CMI, you will normally have heard from me in a sales capacity with regard to neckties and yacht burgees, both of which are still in stock, and if you are interested in one of these fine bargains, you can contact me about that, too.But the reason that I rise this morning is to announce the "hot off the presses" millennium edition of the CMI Handbook of Maritime Conventions. The first edition was not a happy one. This one has been totally rearranged. It is much more user-friendly. It has an index, in addition to the table of contents. It is considerably expanded in content, and it also prints the final clauses of all instruments adopted by a diplomatic conference. We have managed to keep it to roughly the same size as the previous edition by virtue of using thinner and stronger paper. The objective always is to make this a "handbook," which is why it doesn't contain the Law of the Sea Convention, but it does contain most of the instruments that one would normally refer to. I assure you that the editor humbled himself not to provide extensive commentary. You can find that elsewhere. Modesty, of course, forbids mention of that gentleman's name . . . .(Laughter.)MR. WISWALL: There is nepotism involved in the cover design, but that's another matter. The final thing I have to say about it is we have held the price at the previous level, and you can obtain it directly from the publisher, Lexis-Nexis.Another surprise, Mr. President, is the Maritime Law Association of the United States is by far the largest constituent member, national member association of the CMI. It also pays in the highest category of what we euphemistically call "subscriptions" to the CMI for its support. The attitude of the officers of this Association toward, and the support that they give to, work in this Association connected with the CMI and to the Comité itself are, therefore, of vital importance.I have considered that the Comité has been extremely fortunate in having the support of President Dorsey and, of course, the other officers of the Association during what has been a somewhat difficult time of reorganization and adjusting the CMI's compass. I hope that phase is coming to an end.But I want on behalf of the Executive Council-I know I speak for everyone there-to thank and to congratulate the officers of this Association on their support for the Comité.(Applause.)PRESIDENT DORSEY: A word about the Handbook on International Conventions. I can commend it to you. Actually, I bought one two years ago and, of course, that immediately prompted the desire to amend it and the issuance of a new version. I now have to buy that. The first one I thought was pretty good and very helpful. If Frank says this one is better, then I'm in line to buy it myself.So, Mr. Parrish.MR. PARRISH: Thank you, Mr. President.The hour is late. I'm here to talk about our next resort meeting.We have high sights for our next resort meeting, which will be in Bermuda on Wednesday, not Tuesday. We're going to start a day later, Wednesday, October 29, 2003, through Saturday, November 1st. So please mark your calendars. You will be hearing much more from us. We're going to be at the Southampton Princess.Thank you very much.PRESIDENT DORSEY: Thank you, Robert.(Applause.)PRESIDENT DORSEY: Ladies and gentlemen, I think that concludes our regular reports.Before I call on Mr. McCormack for the report of the Nominating Committee, I would like to note that we have four of our members who are retiring from the Board this year:Vince DeOrchis, Geoff Birkhead, Jack Gooch and Bob Parrish. They have done a wonderful job for me and for this Association. I would like them to stand and give them a round of applause.(Applause.)PRESIDENT DORSEY: Now Mr. McCormack, we would be delighted to hear the report of the Nominating Committee.MR. McCORMACK: Thank you again, President Dorsey.This is my last official act as the Immediate Past President. I would like to report on the meeting of the Nominating Committee which took place on Wednesday, May 1st.The Nominating Committee has met and considered the nominations for officers and for four new Board members. The nominees which the Nominating Committee puts forward to this Association are the following:For the office of President, Raymond P. Hayden of New York; for First Vice President, Thomas S. Rue of Mobile; for Second Vice President, Lizabeth L. Burrell of New York; Secretary, Warren Marwedel of Chicago; Treasurer, Patrick Bonner of New York; Membership Secretary, Philip Berns of San Francisco.For members of the Board for a term expiring in 2005, May: Robert Glenn of Savannah, Robert Clyne of New York, Glenn Goodier of New Orleans, and Richard Leslie of Miami.Mr. President, it is my proud moment to present to you and to the members of this Association the nominations on behalf of the members of the Nominating Committee.PRESIDENT DORSEY: Thank you, Mr. McCormack. I call on Past President Herbert Lord, a member of this Association for 59 years, and ask if he would make a motion in favor of the nominations.MR. LORD: Mr. President, I have the honor of moving the election of the nominees that have just been presented to you by our Past President, Mr. McCormack, by directing to Secretary to cast a single unanimous vote of the membership adopting the recommendations of the Nominating Committee.PRESIDENT DORSEY: Is there a second?(A chorus of seconds.)PRESIDENT DORSEY: Any discussion?(No comment.)PRESIDENT DORSEY: All in favor say aye.(A chorus of seconds.)PRESIDENT DORSEY: Opposed?(No comment.)PRESIDENT DORSEY: It is unanimous. We have a new slate of officers and four new members of the Board of Directors. Good job by the Nominating Committee.Ladies and gentlemen, before I turn the reins over to the new President, permit me the privilege of a few remarks.It has been an unbelievably quick two years for me. I am at the age, actually, where you are not too anxious to have time pass too quickly.They say that time flies when you're having fun, and for the most part it has been great fun. Of course, 9/11 was not fun. But the resilience, the strength of character and the spirit of cooperation that were shown by the New York members as a result of that incident and tragedy is a source of great inspiration to me, as well as a matter of great pride.I do want to thank a number of people. I can't thank everybody; I don't have time to do that. It's 11:30. We're way ahead of schedule, actually, but don't worry, I'm not going to stretch it.(Laughter.)PRESIDENT DORSEY: First, of course, I want to thank Anne, who has had to put up with all of the travel, not to mention me, for the past two years. She has been a great supporter in the various trips that we have had to make.I want to thank my secretaries, Terry Zeller and Debbie Jobson, who are models of patience. Don't think that I had to have two secretaries to do this job. Actually, I have one secretary for two days and the other secretary for three days. They aren't only just my secretaries; they're secretaries of others in the firm, but they are so good and so capable that we never missed a beat on that. Of course, e-mail helped a great deal.I want to thank JoAnne Zawitoski, Alex Giles and Jimmy Bartlett and the other principals of Semmes Bowen & Semmes not just for their support, but enthusiastic support, which is all the more remarkable given the fact that I'm not a producer on the bottom line since I'm retired from the firm. So I could not have done anything without Semmes' help and aid.I want to mention Robert Becker at P.C. Solutions in Buffalo, who was always on the ball, always there, always patient, always friendly.I don't think any president has ever had a better group of Board members or Committee Chairs. They were always responsive, quick to come to the fore and to fulfill the tasks that I assigned them, sometimes on very short notice.I have been blessed with a fine group of officers, as fine as any president has ever had: Ray, Tom, Pat, Liz, Winston and Howard.I'm fortunate that the officers with whom I've served, and I include Jim Moseley and Marshall Keating, Chet Hooper and Bunky Healy in that group, were not only colleagues and wise advisors, but friends. As the ad says, that's priceless.Finally, many thanks to all of you for affording me the great honor of serving as your President. It's been a wonderful two years.Now I want to extend my congratulations to the new officers and to the new Board members and to the new President, Ray. I don't think we could have done better in this respect. To Ray, I must say it's too late for you to turn back. I stand relieved and the watch is yours.(Applause.)MR. HAYDEN: Thank you, Bill. Please don't sit down. You are not done.Bill, on behalf of the Association I want to thank you for your services for last two years. You have been a great and effective leader and it has been a privilege for me to have worked with you.On behalf of the Association, it's my privilege to present to you a Certificate of Appreciation, and I would like to share what it reads with everyone here:The Maritime Law Association of the United States presents this testimonial of appreciation to William R. Dorsey, III, in recognition of his distinguished service as President during the years 2000 through 2002.The Association takes this means of recognition of his able and successful leadership, his constructive efforts, and his outstanding contributions to The Maritime Law Association and to the field of Maritime Law.Thank you, Bill.(Applause.)MR. HAYDEN: I might add to Bill's comments that behind every great president is a great woman, and Anne was absolutely perfect. She meant a lot to the Association and she was a great support. Anne-I think she's here.(Applause.)MR. HAYDEN: We have the pleasure of having with us today Captain Ahern, who has spoken earlier, Chief of the Office of the Maritime & International Law of the United States Coast Guard, and he would like to make a presentation. Captain Ahern.CAPTAIN AHERN: I'm going to ask Lieutenant Carolyn Leonard-Cho to read the citation by Admiral Loy in just a minute, but I wanted to take just a few seconds to tell you personally how much I appreciate Bill's assistance.You will hear in the citation about his leading role in the Athens Convention last year. He noted a couple of problems with the text, strict liability provisions, the burden of proof on the negligence side. He suggested changes, he drafted amendments, the United States accepted them, and they won acceptance and are now part of the text.A little more broadly, I regard very highly the assistance of the Maritime Law Association, and I look for every opportunity to call on your expert assistance in a broad range of the Coast Guard's missions.So with that, Carolyn, please read the citation, and Bill and I can look at it up here.LIEUTENANT LEONARD-CHO:The Commandant of the United States Coast Guard takes great pleasure in presenting the Coast Guard Meritorious Public Service Award to William R. Dorsey, III, for his contributions to the Coast Guard while serving as President of the Maritime Law Association of the United States from 2000 to 2002.Under Mr. Dorsey's outstanding leadership, the MLA has provided extensive resources and expertise in support of Coast Guard international and domestic initiatives and cultivated an effective partnership between the Coast Guard and the MLA resulting in increased awareness and appreciation of issues of mutual concern.Mr. Dorsey has made significant contributions, both internationally in advancing the interests in the United States at the International Maritime Organization (IMO), and domestically in facilitating important professional dialogue between the Coast Guard and the marine industry.At the IMO, Mr. Dorsey played a key role in insuring that the recent negotiations concerning amendments to the liability regime governing cruise passenger injury and death reflected a fair, balanced, and realistic result that the United States could ultimately ratify.His proposed negotiating positions became those of the United States, the positions won quick acceptance at the IMO, and were incorporated into the final version of the negotiating text.On the domestic front, Mr. Dorsey welcomed the Coast Guard's representatives at semi-annual meetings of the MLA, fostering discussions on a broad range of professional interests and important to the Coast Guard, particularly marine safety, environmental response and prosecution, vessel documentation, and emerging maritime security issues.His professionalism and strong commitment to strengthening the important relationship between the Coast Guard and the MLA has generated positive results that benefit all.Mr. Dorsey's dedication and superior accomplishments are heartily commended and are in keeping with the highest traditions of the United States Coast Guard.The award itself says: "Department of Transportation, United States Coast Guard. The Commandant, in recognition of notable services which have assisted greatly in furthering the aims and functions of the Coast Guard, takes pleasure in presenting the Meritorious Public Service Award to William R. Dorsey, III, on this 3rd day of May, 2002. Signed J.M. Loy, Admiral, U.S. Coast Guard."(Applause.)PRESIDENT DORSEY: I'm not often lost for words, but this is the first time I've ever been awarded a medal. The real people who deserve a medal are the people in the Coast Guard.Thank you Joe and Carolyn. I hope, Joe, after you read our brief in the Sprietsma case you won't ask for the medal back. (Laughter.)PRESIDENT DORSEY: Thank you very much. I can't tell you how much I'm honored. (Applause.)MR. HAYDEN: Congratulations. If I might, I would like to just make a couple of personal comments.I thank you for your confidence in me, in electing me President and electing the other officers to serve you. It's a great honor to be elected as steward of this Association, and I can assure you I will do my utmost. I hope to be able to keep the Association on a straight and narrow course. I hope I can represent you, as well as the Past Presidents, and particularly those who I am closest to: Messrs. Hooper, Moseley, McCormack and Dorsey.The Association depends on its membership, and its strength lies in each of the members and the support they give it. The assistance and support you give the Association helps it maintain its standards. I thank you all in advance for your support, as well as that of my family and my friends.Particularly I would like to thank my son, Christopher, who is here, Andrea, and those who are with us today for their continuing support.I must also add, as President Dorsey did, a word of appreciation and thanks to my partners at Hill Rivkins & Hayden who have encouraged me to go forward with this task. Without one's firm's full encouragement and their support through office assistance and things, one cannot stand in this position. So, therefore, I thank all my partners.Over the past years I think you noticed that each succeeding president has found that it requires more and more of his time. I watched the other recent presidents and I know that the task is tedious.The United States Government has called upon the Association more often than not to lend advice in diplomatic conventions, et cetera, and members of this Association who represent our Association at such conferences deserve a great deal of thanks for their time and effort. It's a great deal of expense on their part and we do appreciate it.Particular mention should also be given to those who have attended at these various conferences. We had what we used to call the "gang of four" who had a lifelong project of putting forward the U.S. Maritime Law Association's position on COGSA. They have now transferred their allegiance and are fighting for us in UNCITRAL.We had the Underwater Cultural Heritage Convention which John Kimball attended, and the Athens Convention, just to name a few, that the members of this Association attended are to whom we are deeply indebted.In the past the Association has always given a small token of appreciation to its outgoing President. Finding something for President Dorsey was really difficult. Bill, as an avid baseball fan, has already spent a week at the baseball training camp of the Baltimore Orioles. As a golfer he has played every noted course in the world. When we were in Canada for the 50th anniversary of the Canadian Maritime Law Association last year, Bill had the sailing ship the Pride of Baltimore come to Montreal and give him a royal salute.(Laughter.)MR. HAYDEN: From here Bill and Anne are reportedly going to be sailing in uncharted waters. In a couple of weeks they are going to travel through Europe and return to the Eastern Mediterranean where Bill served as a young naval officer and navigator of his ship.Yesterday when I had the chance to talk to him about this cruise that they are going to take, I mentioned that we had arranged for him to be signed on as a crew member with a crewing agent as opposed to a passenger. He told me that would not be a problem. With a quick refresher course, and if I had a sextant, I would be able to be a navigator. I don't know if any underwriters are here, but I suggest that you check out the ship's insurance.But with that history in mind, and with the thought that Bill was the Captain of the US MLA for the last two years, we have decided to give Bill a small token of our appreciation. If I may have it, and, Bill, if you would step up here. You are going to have to open it here, Bill, because no one will believe that you are able to work with this.PRESIDENT DORSEY: I have a feeling I know what it is.(Laughter.)MR. HAYDEN: That's upside down.PRESIDENT DORSEY: I have got to read the inscription right here first."To Bill Dorsey . . . ." I'll let you read it.MR. HAYDEN: "who from the very formative years as a naval officer through his Presidency of the American Law Association has held a straight and steady course, the Maritime Law Association of the United States, 2002." Can I open it, too?PRESIDENT DORSEY: Please.(Mr. Hayden displays sextant.)PRESIDENT DORSEY: Oh, my heavens. I was a navigator of a ship in the Navy. We had been on our third long cruise in the Mediterranean. I wasn't happy about that, nor was Anne. We had been in the Med for six months, and we were scheduled to go to Istanbul for Christmas.I was excited because I was going to get to navigate the ship through the Dardanelles, past the Golden Horn and into Istambul. Instead they turned us around and sent us home for Christmas. I have to confess, I was delighted to get home to my wife, but I had mixed emotions because I knew I would never again have a chance to navigate a ship through the Dardanelles. Now it looks like I will.(Applause.)MR. HAYDEN: Ladies and gentlemen, that will conclude our formal morning agenda. I would, therefore, call upon Mr. Herbert Lord, Past President and life-long member of our Association, to make a motion.MR. LORD: Mr. President, with a word of praise for the excellent reports of the Committees, which seem to me, proceeding from a very high standard, to be getting better and better all the time, I move that this meeting of the Maritime Law Association of the United States be adjourned.(A chorus of seconds.)MR. HAYDEN: Any discussion?(No comments.)MR. HAYDEN: All those in favor?(A chorus of ayes.)MR. HAYDEN: We stand adjourned.(Whereupon, at 12:00 o'clock noon, the meeting was adjourned.) |