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| **Reports of Officers** |
| **Source:** MLA **Doc. No.:** 750 **Date:** May 5, 2000  PROCEEDINGS  PRESIDENT McCORMACK: We will start the meeting today which marks the termination of our Centennial year which we started a year ago, marking our 100th anniversary.   It is indeed with a great deal of pleasure and a little bit of sorrow that I preside over my last meeting as President at the termination of our Centennial year. It has been a fantastic year in many, many ways. It is interesting that although the weather this year is a lot better than the weather was last year, the Museum of Modern Art is on strike so if we planned the Centennial activities this year, we would have been without a place to go on Wednesday evening. I suppose I should be thankful for small favors, and we are indeed thankful for that event.   We will have the usual number of Committee reports. We are missing our Membership Secretary, Winston Rice, who sends his regrets. He had some minor surgery. He's coming out fine, and he is deeply saddened that he was unable to be here today. Our Secretary, Liz Burrell, will take care of his report. With that I would open the meeting and ask our Secretary, Liz Burrell, for the Secretary's report.   MS. BURRELL: Good morning, Mr. President, members and guests.   Two ministerial matters before I report on the Board activities over the last few months. First, if you are going to be speaking today, please remember to leave a card with the reporter so that she may get your name right and we will know who made such remarkably intelligent remarks. The other thing is that I would like all of you to recall that you should record your attendance at this meeting either by leaving your name on the list kept by Robin Becker, who is right outside the door, or by leaving your card with her. Please indicate whether you are a member or a guest.   The Board met yesterday in New York City here in the City Bar and also met on March 3rd by teleconference. We have been using teleconferences at times to spare the Treasury and it is working out very well, although face to face meetings are still invaluable.   We had reports from the Membership Secretary and from the Treasurer and you will hear these later. The Secretary reported on the status of the Proceedings, and in particular the Special Proceedings that were distributed to the membership in honor of our Centennial. I hope that you have read the Special Proceedings because they provide an exceptional history of our Association and insight into its activities over the years.   President McCormack reported on the positions that will be opening up in the CMI Executive Council that will be filled at the CMI Assembly meeting later this month. President McCormack also reported on his activities on behalf of the Association. Many of the President's endeavors are already described in the President's Newsletter you should all have received, but I wanted to call special attention to his attendance at the Canadian Maritime Law Association Executive Committee in April. President McCormack also reported on the very significant Supreme Court decision in *INTERTANKO v. Locke*, in which the Association had submitted an *amicus* brief. This 9-0 decision is one that we hope will have a significant impact on future regulation of shipping. We also received a letter of appreciation for our *amicus* efforts on this case from INTERTANKO.   President McCormack told the Board about the UNCITRAL meeting in New York in July 2000, and the CMI colloquium in Toledo, both of which will treat issues of international transport law. I expect you will hear more about this later from Vincent DeOrchis, Chair of our Carriage of Goods Committee. Many of the President's activities are described in the Newsletter, which also included a questionnaire about members' opinions on our "away" meetings. We are making every effort to make these meetings more meaningful and convenient for our members in general, so please, dig out the newsletter, read it, take up that questionnaire, fill it in and send it to President McCormack so that your views can be reflected in our planning for future meetings.   I would like to take this opportunity to advise that the Association has now been accorded CLE provider status in the State of New York. It was a very, very major effort on behalf of the Association undertaken by Larry Bowles and several others to gain that accreditation. I hope, therefore, you will be encouraged to attend the program that is being put on this afternoon by the Forum of Maritime Law Professors on personal injury, maritime personal injury and death. New Yorkers and others now can get CLE credit, in addition to improving their knowledge.   As is usually the case, much of the Board's attention was focused on the significant work by our Committees and Study Groups. The Board approved the mission statement of the Study Group on the Marine Insurance Project, which is being co-chaired by Ed Cattell and Mike Sturley.   The Board heard from Fred Kuffler, who heads the Board's special Subcommittee on Environmental Crimes. This is, of course, a very significant area for this Association. In an earlier letter by President McCormack to the House Subcommittee last year, the Association had already recommended that a qualified privilege be extended to communications that occur immediately after a spill so as to enhance the possibility that the consequences of the spill can be minimized. So far, our recommendation has not received a response from the Government. With the Committee on Maritime Criminal Law and Procedure, the Subcommittee will be working on formulating a guide for practitioners who are called upon to act in spill situations. The guide will be published in one of the Association publications.   Fred also described several difficult cases that have arisen in this context, but some of the problems that are involved in dealing with the overlap between pollution and criminal prosecution are so great that we may need to call upon the help of other larger associations to try to remedy some of these matters. If you have been involved in any spill situations that have involved criminal prosecutions, please write to Fred Kuffler and let him know so that he can be aware of how things are actually working in this context.   We heard from Vince DeOrchis, the Chair of our Carriage of Goods Committee on both international issues, as well as the status of our COGSA proposal. He will tell you more about that later.   The Board also took action on a resolution by the Practice and Procedure Committee. As you may recall at our last General Meeting, the Association adopted a resolution of that Committee regarding amendments to Supplemental Rules B and C. With respect to Rule B, the proposed amendment fixed the time for determining whether or not a defendant can be found within the district. With regard to Rule C, the proposed amendment concerned the notice that must be given at the time of arrest. While the Rule B proposal proceeded very smoothly, upon further study, there seemed to be some problems with Rule C. The Board therefore authorized a splitting of the former resolution so that the Committee can continue to advocate the amendment of Rule B while more attention is devoted to Rule C.   The Association continues to be very heavily involved in international activities, one of which is the upcoming CMI meeting in Singapore in February 2001. I anticipate that we will have a report from the Chair of the CMI Committee, Michael Marks Cohen, who will describe more fully all of the efforts that are being undertaken to prepare for that meeting.   In addition, an UNCITRAL working group on arbitration was attended by the Chair of our Committee on Maritime Arbitration, Don Kennedy. I expect he will also tell you more about that later.  We had a very extensive report by First Vice President William Dorsey on his attendance at the IMO Legal Committee meeting in March in London. The Legal Committee has completed work on the draft Convention on Bunker Pollution. The draft, as it now reads, provides for strict liability for registered owners, bare boat charters, manager and operators of ships, but does have exceptions for acts of God, Government compulsion and intentional acts of third party. There is also a requirement that registered owners must have insurance in the amount provided by the 1976 LLMC Convention or national legislation, whichever is greater. The only open issue that seems to persist is the size of the ship to which this Convention will apply. There will be a diplomatic conference in London next spring at which it is anticipated that the Convention will be adopted.   The last Legal Committee meeting also devoted some attention to the Protocol for the 1974 Athens Convention on Passenger Ships, but there is a continuing lack of progress due to disputes about a number of items, one of which is whether the standard for liability should be strict liability or some type of negligence. Not too much progress was made there, nor on the draft Convention on Wreck Removal.   There was also a report at the Legal Committee meeting from the ad hoc ILO/IMO working group on damages for crew injuries and on crews abandoned by their employers.   First Vice President Dorsey also reported on the status of the proposed UNESCO Convention on Underwater Cultural Heritage. The next meeting to consider that Convention will be in Paris in July 2000. At the moment we are trying to get the U.S. State Department to include an Association member, who would probably be John Kimball, Chair of our Study Group on the UNESCO Convention, to be part of the delegation that will be considering this particular Convention. We have had informal meetings with the State Department to discuss various aspects of the draft Convention, including perhaps trying to limit what would fall into the category of underwater cultural heritage. As First Vice President Dorsey said, we don't really want to include coke bottles. The CMI has sent out a questionnaire on this topic. It is possible that the CMI may become more involved in the drafting of this convention, as well as perhaps some other maritime law groups that might also have an interest in preserving the laws on salvage abandonment laws as we know them. We have also asked Professor Bederman to assist in redrafting certain articles to see if they can be more in tune with MLA goals on issues raised by this Convention.   The Convention's subject matter also overlaps with certain issues that have been raised in the recent Fourth Circuit decision in the*Titanic* case confirming that the District Court did indeed have jurisdiction to entertain this action and make its ruling. There is also another piece of litigation that has just developed in connection with the Titanic. There is a treaty that is under negotiation right now among the United States, the United Kingdom, Canada and France that would have application to the Titanic and how the Titanic is to be treated. The RMS Titanic Group, which was involved in the earlier litigation, has now commenced a declaratory judgment action in connection with the potential treaty that may eventually affect the Titanic, but naturally this also raises some of the same issues that are involved with the UNESCO Convention. We will continue to follow this, as well.   Finally, I would just like to say that we hope that you have all had a very intriguing week attending the many informative Committee meetings that have been going on this week. I do hope that you will stay this morning and listen to the reports of all the Committees whose meetings you didn't get to attend.   Thank you. That concludes my report, and I respectfully move its adoption.   PRESIDENT McCORMACK: Thank you very much, Liz. May I have a motion to adopt the Secretary's report?   MR. HAYDEN: So moved.   MR. McCORMACK: Second?   (Second.)   MR. McCORMACK: All in favor?   (A chorus of ayes.)   MR. McCORMACK: Any opposition?   (No response.)   PRESIDENT McCORMACK: The motion is carried. Thank you very much, Liz.   In the context of the Marine Insurance Study Group, the ALI type project that they started, I also want to give to indicate that Ed Cattell and Mike Sturley, who are members of our Association, were the ones who were on the ALI project as members of ALI. They are working quite hard and indeed will be co-chairing that activity. I want to thank them for their participation.   At this time I now call upon our Treasurer, Patrick Bonner, for his report.   MR. BONNER: Thank you, Mr. President.   The Association remains in sound financial shape. We have about $250,000 in assets. This is about $25,000 less than we had last year at this time. You may ask why.   There have been a number of extraordinary expenses. The Centennial printing bill was much higher than usual for the Spring Meeting. It was a remarkable book, but it was costly. Another expensive item is COGSA. There have been a number of trips, both domestic and international, by various MLA members explaining the COGSA proposal to various groups. The third area where there has been an increase is additional travel at either the request or the invitation of our Government to appear at international conventions to represent the United States' point of view. This is something that the MLA has been trying to do for years. We have been trying to be recognized as experts by the Government, by various branches of the Government in maritime law. We have succeeded, but it has been expensive.   I see this trend continuing and I see more and more representatives of the MLA going to Paris, going to Vienna, whatever, but I see that continuing. As Treasurer, I say thank God the Centennial is over; we shouldn't have any more expenses from the Centennial. I just want to say I think that the Association will continue to have sufficient assets to meet all its objectives.   One last thing. Liz mentioned Robin Becker. Robin is outside. She is the voice at the other end of the phone when you call our Buffalo operation. So if you have a chance, stop by and introduce yourself. She knows you, she knows your name, and it would be nice if she could see your face.   Mr. President, this concludes my report, and I move its adoption.   MR. McCORMACK: Do I hear second?   (Second.)   MR. McCORMACK: All in favor?   (A chorus of ayes.)   MR. McCORMACK: Any opposition?   (No response.)   MR. McCORMACK: The report of the Treasurer is adopted.   I do want to make one comment, however, that we have been very successful in our attempts to achieve coordination with the State Department and others. As you know, be careful what you wish for because you may get it. Well, in fact, we have gotten it. I am very pleased that we have, but no one has yet volunteered to go to the State Department meeting in Hoboken, New Jersey, so we still need the volunteers for that activity.   At this time I would like to call upon Liz, wearing her temporary hat as the Membership Secretary in place of Winston Rice.   MS. BURRELL: Good morning again. The Proctor Admissions Committee has recommended that the following eight associate lawyer members be advanced to proctor status. They are G. Ray Bratton of Memphis, Tennessee, B. Otis Felder of Los Angeles, California, Allen E. Graham of Mobile, Alabama, Joseph G. Grasso of New York; Geoffrey Losee of Wilmington, Frederick Lovejoy of Southport, Connecticut, Matt Marion of Stamford, Connecticut, and Janet Marshall of New Orleans.   In addition, the following people were approved as new non-lawyer members. Robert P. Umbdenstock of Southport, Connecticut, James N. Craig of New York, and W. Bruce Law of Norfolk.   At the meeting that took place yesterday of the Board, 23 new associate lawyer members were approved. At the March 3rd meeting of the Board, 24 new associate lawyer memberships were approved.   We also regret that we have learned since the last general meeting of the death of following members: Tallman Bissell, Harry Gavalas, Charles Gleason, Richard Hagen, Charles Herbermann, Frank Marston, Don Mooney, Jim Spahn and Max Taylor. In addition, although he was not a member, Geoffrey Brice, who was a friend to many of us, passed away last November. I would like to ask for a moment of silence.   (Moment of silence.)   MS. BURRELL: Thank you very much. With all of these changes to our membership, the total membership of the Association is now 3,447 maritime lawyers, judges, non-lawyers, academic, and all other categories of membership.   That concludes the Membership Secretary's report, and I would respectfully move its adoption.   MR. McCORMACK: Do I hear a second?   (Second.)   MR. McCORMACK: All in favor?   (A chorus of ayes.)   MR. McCORMACK: Any opposed?   (No response.)   MR. McCORMACK: The Membership Secretary's report is adopted.   At this stage, before we get to the Committee reports, I would like to recognize some of the distinguished foreign visitors who are here today. I would like to introduce to the group some of our Canadian colleagues: Nigel Frawley, the Past President of the Canadian Maritime Law Association; Sean Harrington, who has just returned from a sojourn in London and now is back in Montreal-I'm delighted to see you back, Sean; and the President and Vice President and President Elect of the Canadian Maritime Law Association, Jim Gould, Q.C. Thank you very much, gentlemen.   I had the opportunity of attending the CMLA Executive Council meeting in Ottawa last week. Barry Oland, the President of the Association, has expressed his regrets that he had to be in Ottawa testifying before the Government in connection with a bill pending and then go to London. We will see him next week at the CMI assembly meeting. Jim takes over in Halifax on July 22nd and has graciously invited the members of the Board and others, at our own expense, I might add, to come to Canada for the CMLA Executive Council meeting, which also coincides with the visit of the tall ships in Halifax. I know that some of our Board members will be going up. I know from experience the hospitality of the Canadian Maritime Law Association, and I want to thank you very much.   Jim, would you like to say a few words on behalf of the Canadian MLA?   MR. GOULD: If I may speak from here, Howard?   MR. McCORMACK: Yes.   MR. GOULD: I do want to thank you and Patti for the many kindnesses that you have extended to all of us during your term, and congratulate you on a job very well done and to assure you that our new executives will look forward to working with your new executives and cooperating with you on many matters of common interest, including, of course, of the CMI. So thank you very much from all of us for your kindness and hospitality.   MR. McCORMACK: Thank you very much. Jim will be at the dinner tonight, so those who have not had an opportunity to see Jim, please feel free to introduce yourself. Our relationship with the Canadians goes back a long way, and we hope to be able to assist them in some manner next year when they will be celebrating the 50th anniversary of the founding of the Canadian Maritime Law Association. I understand from Barry and from Jim when I spoke to them in Ottawa that you expect that meeting to take place in Montreal sometime in the latter part of May, early June next year.   I also would like to indicate the presence of Jan Theunis from Antwerp who is visiting us. I don't know whether José Alcantara, the President of the Spanish Maritime Law Association is here. He was present at our Board meeting yesterday and will be attending the dinner tonight.   I also want to publicly acknowledge the presence of Captain Malcolm Williams of the United States Coast Guard. I will have something more to say about that later, but Malcolm is one of our longstanding friends. He is head of the International Law Section of the Chief Counsel's Office of the Coast Guard. Malcolm, I will be calling upon you a little bit later for some remarks.   If I missed anyone, or any one of our foreign friends I have failed to mention, I apologize, but we welcome you here. It's nice to have some of our foreign colleagues who came to the opening of our Centennial year last May and now are here to wish us well on the closing of our Centennial year.   I will now get into the various reports. The fact that you may not hear reports from all the Committees does not mean that they are not doing anything. Many times the oral reports are designed to highlight some of the issues that are coming up. I have encouraged all Committee Chairs, and continue to do so, to submit a formal written report which will appear in the Proceedings of this meeting. I also will mention, as we go down the list, those Committee Chairs who are departing after their four or five years in some case of service. Some of those gentlemen and ladies are here today, some are not.   I would like to indicate that two of the Committee Chairs who will not be giving reports are, in fact, departing. That is the Alternative Dispute Resolution Committee, Harvey Wittenberg of California, and the Chair of the American Bar Association's Relations Committee, our own dear former President, Bunky Healy. |