



The Maritime Law Association of Australia and New Zealand Limited

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MARITIME LAW ASSOCIATION OF AUSTRALIA AND NEW ZEALAND

20TH ANNUAL GENERAL MEETING - 2 OCTOBER 1993

President's Report

It is my pleasure and privilege to report to members on the activities of the Association since the last Annual General Meeting which took place in Hong Kong on 29 October last year.

19TH ANNUAL CONFERENCE AT THE MARRIOTT HOTEL, HONG KONG

October 1992

Notwithstanding the difficulties experienced in organising the Conference and changing the Conference organisers only a couple of months before the Conference was due to take place the Conference itself was extremely successful. The Association is indebted to Cindy Last and Katrina Kotevski for stepping into the breach and ensuring the success of the Conference. The papers as usual were of high quality. Delegates who were fortunate enough to attend the Conference were given an exposition by Jeremy Colman of Burness Corlett in the United Kingdom of the problems which have given rise to the loss, in recent years, of bulk carriers and Frank Chau gave, in his inimitable style, a short but positive statement concerning the ills of the industry and offered some suggestions for improvement on the same topic. Murray Thompson and David Galbraith combined to raise the level of debate concerning reform of marine insurance (a topic to be discussed at CMI's Conference in Sydney in 1994) and Charles Debattista gave his usual spell-binding performance in discussing the recent changes made to the Bills of Lading legislation in the United Kingdom. Space does not permit me to refer to all the other papers and commentaries given at the Conference but suffice it to say that all papers generated a considerable amount of discussion and debate during the course of the Conference. The total number of delegates at the Conference was 101 plus 30 accompanying persons.

PUBLICATIONS

Martin Davies has continued to publish the Journal and our thanks go to him for what is an enormously time consuming exercise. The frequency of its publication and its quality can only be improved if members take the time to write articles or case notes for publication.

LIAISON WITH GOVERNMENT

We have continued to liaise closely with the Australian Government over the submission made last year to the effect that Australia needed to reform the Bills of Lading legislation. Michael Body from the Attorney-General's Department has attended seminars in both Melbourne and Sydney at the invitation of members of the Association at which that topic has been debated. Such contacts can only assist in ensuring that when legislation is introduced it will have been the subject of the widest possible consultation. It is hoped that members of the Association will comment on to the draft paper which it is anticipated the Federal Government will be publishing in the near future.

FINANCES

The Association's finances remain in a good condition as you will hear from the Treasurer. The only contingent liability is the claim made by Convention Travel, reduced from \$37,107.23 last year to \$25,000 this year, which in the view of the Executive Committee is not maintainable, or indeed justifiable. Apart from submitting an invoice claiming the sum of \$25,000 Convention Travel has not to date taken any steps to litigate its claim.

I take this opportunity to thank Ian Maitland for all the work he does as Treasurer and the other responsibilities which he has undertaken, including the membership responsibilities and the Southampton seminars.

COMITE MARITIME INTERNATIONAL

During the course of the year we were pleased to welcome the President of CMI, Allan Philip to Sydney where he gave a talk at a dinner organised by the New South Wales Branch at the Sheraton Wentworth hotel. He took the opportunity to explain the work which CMI is currently engaged in and gave an insight into the topics which are likely to be debated at the CMI conference in Sydney in 1994.

Ron Salter has continued to attend the Executive Committee meetings of CMI and has reported back to the Executive Committee on each occasion thereafter. I was fortunate to be able to attend the Assembly Meeting of CMI in Brussels in late September at which I was invited to give an account of the social programme for the conference. I also attended (by invitation) the Executive Council and two of the Sub-Committees.

An initial invitation has been sent out to the Presidents and Titulary Members of all the countries which are affiliated to CMI advising them of the Conference and the social programme which has been arranged for it. The Conference is to take place between 2-7 October 1994 and registration forms will be mailed early in the new year.

The work programme for the conference at Sydney will be extremely varied. The three topics upon which the working groups will be working simultaneously are :

- Assessment of Pollution Damage;
- Revision of the York Antwerp Rules; and
- Offshore Mobile Craft.

In addition, there will be papers given on marine insurance dealing with the topics of utmost good faith and express warranties and reports given on the present work which is being undertaken by CMI in relation to Classification Societies and in relation to what is termed third party

liabilities but which encompasses the possible revision of the 1976 Limitation Convention and the proposed H.N.S. Convention.

MARITIME ARBITRATION

The work of the sub-committee on Maritime arbitration has reached, if not its pinnacle of achievement at least the culmination of one part of its work at this conference. All members of the Association now need to make use of the material which has been produced and endeavour to change perceptions of those engaged in maritime transportation in this country and overseas of the relative merits of alternative dispute resolution.

EDI SUB-COMMITTEE

Since October 1992 the sub-committee has met on three occasions to discuss further developments in EDI in the shipping industry, both domestically and internationally and particularly with respect to transport documentation.

During the course of the year there has been some change in the membership of the sub-committee. Lionel Feltham and Brian Makins, whose contribution will be missed, have left the sub-committee during the year.

The sub-committee currently comprises Mr Justice K J Carruthers (Chairman), Peter McQueen (Ebsworth & Ebsworth), Ralph Allan (Mercantile Mutual Insurance), Ron Owen, Peter Murphy (Norton Smith & Co), Karl Zlotkowski (Australian Chamber of Shipping), Gary Quirke, (P&O Containers) and Geoff Mercer (Russell McVeagh McKenzie Bartleet & Co).

The work of the sub-committee has concentrated upon developments in UNCITRAL in respect of its Working Group on international payments on EDI and on draft uniform rules on the legal aspects of EDI. Representatives of the International Trade Law Section of the Attorney General's Department have attended our meetings and discussed with us developments in these areas and what has occurred at further meetings of the UNCITRAL Working Groups.

In respect of the UNCITRAL draft uniform rules on the legal aspects of EDI, the sub-committee considered the matter in detail and briefed Mr Keith Wilson the Australian representative who was attending (and has attended) the meeting of the Working Group in Vienna early this month on the sub-committee's views. Upon his return to Australia, Mr Wilson has expressed appreciation for the assistance which the Working Group received from the sub-committee's views. The sub-committee is awaiting a copy of the report of the Working Group following this meeting.

The Chairman will be presenting a paper on the legal aspects of EDI at the "EDI in Trade and Transport" conference in Sydney on 24 November next. This conference is endorsed by EDICA, the Chartered Institute of Transport and Trade. Copies of his paper will be available to interested members of the Association.

BRANCH ACTIVITIES

I attended the New Zealand Branch meeting at Tokaanu for the second year running, this year. As a result of the increasing numbers of attendees the venue has had to be changed to a larger hotel than Tokaanu has to offer. Once again it is a Conference which I thoroughly commend to all members of the Association.

I also attended a meeting of the Queensland branch at which the principal speaker was Professor Robert Force, earlier in the year. Without wishing to disparage any of the other Branches there is no doubt that the Queensland Branch is the most active, and in taking steps to organise one or two day Conferences and engage the services of high profile international guest speakers it has lifted the profile of individual branches substantially. With its newsletter containing useful information concerning recent cases and articles in magazines etc. the Queensland branch is actively complying with the objects of the Association which are, of course, inter alia, to disseminate information on maritime law. I congratulate Anthe Philippides and her team for their enthusiasm.

1994 CONFERENCE

Next year's Conference is to be unusual as it takes place in the same year as the CMI Conference to be held in Sydney in October, about which mention has already been made. The Executive has therefore determined that the AGM should next year be held outside the capital city and is to be held at Leura in the Blue Mountains, less than two hours drive from Sydney. The Conference is only to occupy a couple of days which will be divided into one day spent "work-shopping" the topics which are to be discussed at the CMI Conference a few months later and the other day will follow the usual format of our Conferences when papers will be given. The dates of the Conference are July 21-24, 1994 and I hope as many members as possible will attend. It will have a Yule-tide feel so bring warm clothing.

1995 CONFERENCE

The Executive Committee has decided that the 1995 Conference will be held in Wellington, New Zealand and further details of the Conference will be provided during the course of next year.

ASSOCIATED MANAGEMENT AND ADMINISTRATION

Executive Committee meetings have taken place this year on 4 December 1992, 9 February, 7 April, 2 June, 9 August and 13 September 1993. These meetings have been well attended. Neil Wheeler has been a regular visitor from New Zealand and we are delighted that he has been able to keep us in touch with developments in New Zealand, both in so far as the Branch is concerned and in so far as legislative developments are concerned in New Zealand maritime law. In addition Ian Maitland, from South Australia, and Ron Salter from Victoria have rarely missed meetings. Mr Justice Richard Cooper has attended meetings so far as his judicial commitments have permitted. I am extremely grateful to all of them for their contributions during the course of the year as well as to Rod Withnell and Chris Quennell who have taken the burden of producing the newsletter as well as attending numerous meetings which the three Sydney based members of the Executive have attended with ICMS, the Conference organisers for the 1994 CMI Conference.

CONCLUSION

It is encouraging to note that although some members of the Association do from time to time allow their membership to lapse we are constantly welcoming new members to the Association throughout Australia and New Zealand. I am also convinced that there is a large untapped membership involved in the transportation industry. As service providers are required more and more by society to satisfy their customers that they have total quality management systems in place there will, I believe, be a greater demand for those involved in the transportation industry to understand the legal requirements of their businesses and thus employees will be required to be involved in Associations such as our own.

The focus of the Association's activities continues to be the Annual Conferences and the seminars organised by the Branches. It is inevitable that another important focus for the Association over the last year or two and for the next twelve months will be the CMI conference in Sydney next year. Like the Olympic Games in the year 2000 I do believe that the CMI conference in Sydney next year, like any other international conference of its type, for example AIDA, will help draw attention to the important part which this country plays in international trade. In that context the steps which have been taken at this Conference in relation to Australian Dispute Resolution are important and must be built upon in the years to come. Although London has built a well earned reputation as a centre for maritime arbitration and is geographically well suited to provide an appropriate forum for disputes involving participants from the American Continent and Europe there must surely be a growing awareness in countries from the Pacific Rim that there are other equally appropriate forums closer to home.

Finally, I look forward to the CMI Conference next year in providing an appropriate landmark for the 20 year existence of this Association, I look forward to what will be a very different Annual Conference to those which we have held in recent years and to the continuing improvement in quality of the Journal and to some intellectually stimulating and interesting seminars being held in the various Branches of this Association.

I also take this opportunity of again thanking all my colleagues on the Executive Committee for their tireless work on behalf of the Association.