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MLAANZnews

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President's Message

Dear fellow members

As we approach the middle of year it is a good time to take stock of what the members of Association have achieved thus far this year and what we have yet to look forward to in the latter half of 2011.

The NSW Biennial Mini Conference was a huge success and a report from Nathan Cecil appears later in this newsletter. The NZ Branch also held its annual conference in April at Lake Taupo and once again, it was an outstanding success.

I had an opportunity to meet with several members of the WA Branch in Fremantle during the inaugural Congress of Master Mariners, which was a wonderful opportunity to meet many involved in the "pointy end" of the maritime industry.

As you are all aware, this year's annual conference is being held in December in Hawaii, in conjunction with the USMLA and the CMLA. The timing of the conference from our perspective is much later than usual so we will need to hold our **AGM** before the annual conference. It is proposed that this will occur in Brisbane, in conjunction with a symposium to mark World Maritime Day, on **4-5 October 2011**. Please mark your diaries. Official notice of the meeting will be sent out in due course.

On 3 June 2011 I attended the AGM of the Queensland Branch. Michelle Taylor of Norton Rose has been elected the new Branch Chairman and I extend my congratulations and good wishes to Michelle in her new role. I would also like to extend my thanks to Chris Douglas of Minter Ellison who now takes on the role of Immediate Past Chairman of the Branch.

Brisbane has also been fortunate in hosting the recent visit by the solar ship "Turanor Planet Solar"; a tremendous glimpse into what the future of shipping might entail. I thank Edgar Gold for the photo.



The program for the Hawaii Conference is almost finalised but the Board would still welcome enthusiastic participation by anyone who has not yet offered to contribute in some way to what I anticipate will be an outstanding conference. Sporting teams are being arranged and I would encourage all golfers, tennis players, cyclists and surfers to start your preparations. We will also need an outrigger canoe team to compete for the "Bloodyslow Cup". All volunteers welcome.

With my best wishes to you all

NSW Biennial Mini Conference – Nathan Cecil

There was great food, fun and frivolity at the New South Wales Branch's biennial mini-conference held on 11 March this year, but there was also some serious and thought-provoking discussion. Held at Lillianfels Resort in the Blue Mountains, 38 members and friends of MLAANZ attended the conference and were addressed by 10 distinguished speakers, including the Honourable Justice Steven Rares of the Federal Court of Australia, on current maritime law issues.

Insurers, solicitors, barristers, carriers, academics and brokers made 2-3 days of the event, with many arriving at Lillianfels the night before Friday's conference for a casual dinner and some staying on for the weekend.

The conference began on an inspiring note, with the Honourable Justice Rares providing a keynote address on the need for a new international treaty to cover the risks of oil pollution posed by a largely unregulated (in terms of oil pollution compensation) offshore hydrocarbon industry. The insightful presentation discussed the potentially catastrophic effects of an oil spill from offshore installations and operations and stressed that the current regime could see the companies responsible for pollution escape liability for purely technical reasons. "Oil pollution heeds no borders", according to Justice Rares, who then discussed the Bunker Convention as a possible framework for a new treaty for offshore oil pollution. One year on from the Deepwater Horizon disaster, Justice Rares urged the international community to regulate the liabilities of the developers, owners and operators of offshore oil and gas exploration and extraction installations, particularly as the industry moves from operating in the Economic Exclusion Zone to the high seas.

Professor Nick Gaskell followed and took the audience on a journey of bills of lading – from their birth to their modern day and electronic form. Professor Gaskell presented examples of current electronic bills of lading and discussed the special challenges posed by incorporation when bills are created and transferred

electronically. He posed questions for lawyers and those operating as carriers – do we need terms and conditions in 4-point font on the reverse side of bills of lading? In fact, are bills of lading necessary at all?

Leading academics, Professor Elizabeth Peden and Dr Tim Stephens followed, discussing penalty clauses and whaling in turn. Professor Peden, who also practices as a barrister in Sydney, discussed the current state of the law in penalty clauses in the months following the CTTT decision in *China Shipping (DV Kelly Pty Ltd v China Shipping (Australia) Agency Co Pty Ltd*, now overturned) and had the solicitors in the room carefully noting her rules for when a demurrage clause amounts to an unenforceable penalty clause. Dr Tim Stephens discussed the complex legal and political challenges faced by the international community in pursuing Japan for breaches of the International Convention for the Regulation of Whaling, and provided attendees with an update on the proceedings currently on foot in the International Court of Justice.

Given that the *Personal Properties Securities Act* (2009) (Cth) is scheduled to come into force in October this year, Karl Stolberger, partner at Lowndes Jordan in New Zealand, provided the audience with a 'lessons learned' address on the way in which the PPSA regime works in practice for in New Zealand. Given the wide-ranging impact the PPSA will have on the marine industry, this was a timely and informative address.

The conference concluded with a humorous and stimulating panel hypothetical discussion on piracy. With representatives from the Royal Australian Navy (Commander Ian Campbell), P&I Clubs (Marcus John from TT Club), private practice (Frazer Hunt from Piper Alderman) and carriers' agents (Steve Robertson from Bayside Shipping Services), the issues posed by modern day piracy were made hilarious because of the factual scenario crafted by Rob Wilson of Norton White. With iPads unwillingly acting as nuclear detonators, Somali pirates dressed as clowns, ransoms, gun shot wounds, precious cargo destined to be divvied up in a general average claim and a dead ship cargo vessel heading for

the shores of Darwin, the panel provided a comprehensive account of the roles of stakeholders involved in the complex journey from hijacking to rescue.

The biennial mini-conference concluded with drinks for attendees and partners and a gala dinner in a private room at Lilianfels. The night was topped off with a few freebies courtesy of AMSA, modelled by President Sarah Derrington, Professor Nick Gaskell and his wife and partner in crime, Lindsay Gaskell (pictured).



Thank you to the MLAANZ New South Wales Branch Committee members for their efforts in organising such a successful event: Nathan Cecil (Chairman), Terri Bell (Secretary), David Read (Treasurer), Robert Wilson, Tony Tesoriero, Claire Bolster, John Levingston, Kristin Hibbard and Kristen Le Mesurier. Our thanks also extend to Tom Irving, who now resides in the UK but played a pivotal role in the event's organisation.

This event was sponsored by Wotton & Kearney and Lloyds List DCN.

CMI Correspondence – from the President Karl-Johan Gombrii



The CMI has been reviewing and remodelling its website and we are pleased that you are now visiting it.

In view of the continuous and rapid development of communication technologies, we felt that it was about time for us to try to modernise our website and avail ourselves of at least some of the new possibilities. We believe that we have created a good basis for interactivity between the CMI on the one hand and its member associations and their members on the other hand.

The building of a database on jurisprudence regarding maritime law conventions is an example where input not only from member associations but also from their individual members is vital, see [“Jurisprudence on Interpretation of Maritime Conventions”](#).

It is of course important for the member associations to supply information on their officers, events/activities, conferences, seminars (and eventually membership) etc. so that the website will become a genuine repository of activities all around the world in our specialist area of practice and of intellectual materials relating to maritime law, as well as links to all member association sites. We also look forward, eventually, to being able to communicate and supply materials directly to the individual members of the member associations.

Finally, the new website is considered a living project which will need constant adjustment and updating. We therefore launch it although we are aware of certain shortcomings which we will try to rectify as we go, but will be grateful for your identifying mistakes and making proposals for improvements to admini@cmi-imc.org.

Upcoming Maritime Events

International Maritime Law Arbitration Moot 2011 – Singapore

2-7 July 2011

<http://www.law.murdoch.edu.au/maritimemoot/index.html>

6th Annual LNG

Burswood Convention Centre Perth

5-7 September 2011

www.lngworld-lse.com

CMI Annual Assembly

The Annual CMI Assembly will this year take place in Oslo on the 27th September. In that connection the Norwegian Maritime Law Association will arrange a Seminar on the 26th September at the premises of DNV (Det norske Veritas - the Norwegian classification society) on topics related to maritime law and the environment. Further details would be published in due course. Any questions may be directed to admini@cmi-imc.org.

CMI Conference

Beijing 14-19 October 2012

Branch websites

All Branch Committees are requested to update their Committee & Event details as a matter of priority.

How do we contact you?

Please keep your membership information current! Go to the website and update your contact details. Remember to include your e-mail address and help us save on costs.

If you need any assistance, please contact the Administrator, Ms Annie Chahwan Masters, at mlaanz@vicbar.com.au