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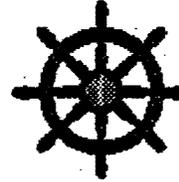
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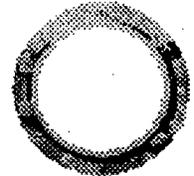
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WELCOME to the home page of the Canadian Maritime Law Association (C.M.L.A.). The C.M.L.A. is an organization composed primarily of practicing maritime lawyers and other interested persons in the shipping and maritime industry. To learn more about the C.M.L.A. go to the section [About the C.M.L.A.](#)

If you would like to contact the C.M.L.A. you may send an e-mail message to cmcla@istar.ca. Our "snail mail" address is: Canadian Maritime Law Association, 360 St. Jacques West, Suite 2000, Montreal, Quebec, H2Y 1P5, CANADA - Telephone (514) 849-4161 - Facsimile (514) 849-4167.

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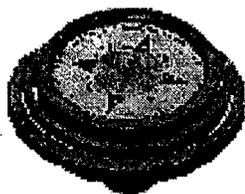


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About the C.M.L.A.

The Canadian Maritime Law Association (CMLA) founded in 1951 is comprised both of individual members from all parts of Canada, and constituent members including:

- Association of Average Adjusters of Canada;
- Association of Maritime Arbitrators of Canada;
- Canadian Bankers Association;
- Canadian Bar Association;
- Canadian Board of Marine Underwriters;
- Canadian Ferry Operators Association;
- Canadian Shipowners Association;
- Canadian Shipowners Mutual Assurance Association;
- Canadian Ship Suppliers Association;
- Company of Master Mariners of Canada;
- Marine Atlantic Inc.;
- Maritime Employers Association;
- Shipping Federation of Canada;
- Association of Marine Underwriters of British Columbia
- TSI Terminal Systems Inc.

Many constituent members are represented on the Executive Committee.

The CMLA is Canada's representative to the Comité Maritime International (CMI) an organization founded in 1897 to promote uniformity and reform in international maritime law and commerce. The CMI at the international level has been responsible for international conventions such as: the Hague Rules 1924; Hague-Visby Rules 1968; Limitation of Liability for Maritime Claims 1976; Salvage Convention 1989; the York Antwerp Rules; and other international agreements which regulate international maritime transportation. As a result, the CMLA as Canada's national and international maritime law organization participates fully in the revision and reform of international maritime law.

Transportation by sea is a business which involves potential risk of loss and damage to ship, cargo, third party property, the environment, and seafarers. For a shipowner, charterer, tug, barge, or ferry operator, cargo owner, banker, marine insurer, salvor, offshore contractor or freight forwarder to conduct maritime business there must be recognized rules to govern maritime commerce and protect the interests of all parties.

The mandate of the CMLA is to advance the development of effective, modern commercial maritime law within Canada and the international shipping community.

Within Canada, the CMLA has worked actively with Government and industry to advance new legal developments in many fields including:

- Carriage of goods by sea;
- Customs regulations;
- Federal marine insurance legislation;
- International shipping corporations;
- Liability of freight forwarders;
- Limitation of liability for ship operators;
- Marine pollution from oil and hazardous substances;
- Maritime salvage;
- Tanker safety regulations;
- Transportation Safety Board regulations.

The principal role of the CMLA is to represent all Canadian commercial maritime interests for the uniform development of Canadian and international maritime laws affecting marine transportation and related aspects.

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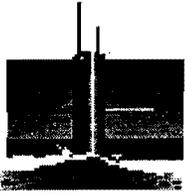


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From the President

PRESIDENT'S NEWSLETTER

April 17, 1997

My last report to the membership was issued on December 4, 1996 and it is time for me to report again. The Executive and our sub-committees have had a busy winter. We held an Executive Committee meeting in Toronto on January 17, 1997 and another in Ottawa on April 3, 1997. We also met with officials from Transport Canada and the Department of Fisheries and Oceans on April 3, 1997 for an up-date on pending marine legislation and other matters. I am pleased to report that the Association is strong, enthusiastic and very active. I think it will be useful for me to comment upon the work of the more active sub-committees:

Canada Shipping Act Reform

Bill C-73 is presently before the House. It contains a number of miscellaneous and house-keeping amendments to the *Canada Shipping Act*. We have been very involved in the formation of a number of these amendments. Then, last August, Transport Canada convened a meeting in Ottawa of stakeholders to discuss a complete re-vamping and reform of the *Canada Shipping Act*. You will recall that about 20 years ago, an attempt was made to reform the Act and legislation entitled the "Maritime Code" was passed. However, it never received Royal Assent. The whole matter was a 10 year process and Transport Canada is anxious to avoid a repetition of that. We took the position at the August 1996 meeting that the Act should be reformed on a Part by Part basis over a five year period and we developed a wish list, as well as a priority list. However, Transport Canada decided to reform the Act all in one process and in the space of two years. With very little notice, they convened meetings across the country in February and some of our members attended to give personal views. A Discussion Paper was then provided with a number of detailed proposals, including amendments to Part I (Recording, Registering and Mortgages). We submitted a paper to Transport Canada on March 20, 1997 and met with Transport Canada officials in which we criticized the fast pace of reform and took issue with several of the proposals. By the same token, we pointed out our willingness to assist in the reform process as it is long overdue. If there are any particular matters that you would like included in our wish list for reform, please advise our sub-Committee Chairman, Jim Gould of Halifax, as soon as you can as matters are moving very quickly.

Bill C-58

This Bill addresses limitation of liability for maritime claims in which higher limits are imposed. However, the trade off was that it imposes a more difficult task for Plaintiffs to break limitation of liability. It also implements the provisions of the *1976 Civil Liability Convention for Oil Pollution Claims, as amended by the 1996 Protocol*. Our sub-Committee under Barry Oland's leadership was very involved in the drafting of the Bill and I appeared before the Standing Committee on Transport in Ottawa in December 1996 to urge its implementation as soon as possible and to point out a few deficiencies. The Chairman invited us to assist in the drafting of amendments with respect to those deficiencies and this was done by a few of our stalwart members a few days later. The amended Bill was then submitted by the Standing Committee to the House of Commons for third reading in December 1996 just prior to the House breaking for Christmas. I wrote the Minister of Transport in January to urge him to do whatever was necessary to ensure speedy passage of the Bill through the House of Commons so that it would be before the Senate for passage and receive Royal Assent before an election is called. As we go to press, the Bill has not yet been reached by the House.

Bill C-59

This is the *Carriage of Passengers Act* which implements the provisions of the *1974 Athens Convention* and its Protocol. It addressed the liability of shipowners to passengers and contains limitation provisions. There are a number of deficiencies in this Bill and it has not yet come before the Standing Committee on Transport.

Bill C-62

This contains well-needed amendments to the *Fisheries Act*. Gordon Bisaro and Will Moreira have worked closely with the Department of Fisheries and Oceans with respect to this Bill. Unfortunately, there are some shortcomings which we have drawn to DFO's attention. The Bill is presently before the House of Commons on a priority basis for third reading.

CMI and International Sub-Committees

I am very pleased to advise that the Hon. David Angus, Q.C., a former President of the CMLA, has been nominated for a second two-year term as a member of the CMI Executive Council. He has participated very actively in their deliberations and has been of great assistance to the CMI and to this Association.

a) Carriage of Goods by Sea

Our Chairman, Rui Fernandes, attended the 4th Session of the International sub-Committee on Uniformity of the Law - Carriage of Goods by Sea in London last month. Its purpose was to receive the views of national MLA's on a possible new regime. A report will be prepared for the CMI Centenary Conference in Antwerp June 8 - 14, 1997. We have been advised that the CMI will co-operate with UNCITRAL in any proposed new regime.

b) Feasibility of a Comprehensive Convention on Offshore Units and Structures

We hosted an International Sub-Committee meeting in Toronto on January 18, 1997. Delegates from the U.K., Denmark and Canada were present. In addition, the American delegate participated by telephone conference and submissions were also received from Japan. 16 replies have now been received to the CMI Questionnaire on the Offshore, which is an extremely good response for a very complex subject. The International Sub-Committee next met in New Orleans on March 10 and 11, 1997. Delegates from Canada, U.K., U.S.A. and Italy were present with submissions received from Japan. A report has been prepared and there will be a Panel discussion on the subject at Antwerp on June 9, 1997.

c) Electronic Data Interchange

The CMI prepared a set of Rules on this subject at the CMI Conference in Paris in 1990. Since then, the CMI Working Group has been following UNCITRAL's preparation of a Model Law on the subject which, in fact, is now being adopted in the U.S. Commercial Code. In Canada, it is under study by the Uniform Law Conference. The Working Group is now preparing for the Antwerp Conference where there will be a Panel

presentation on the subject.

d) Classification Societies

A Code of principles and conduct has been drafted for Classification Societies as a means of restricting claims against them by improving standards and establishing a reasonable benchmark against which to measure their conduct. A formula for limitation of liability continues to elude the draftsmen.

e) Wreck Removal

There is no international consensus as to the need for a Convention covering international waters, and whether the Convention should also apply to domestic waters. Canada has no vital interest in the proposed Convention but we are continuing to monitor developments.

f) Pollution from Bunkers

At present there is no international system governing liability for oil pollution by ships' bunkers. The CLC 1969 and Fund Convention 1971 cover spills from laden oil tankers and where the 1992 Protocols apply, they will cover spills from tankers in ballast. The CMI has distributed a Questionnaire, which we have completed. The *Canada Shipping Act* covers all oil pollution, whether by bunkers or cargo, so we support this initiative.

g) Salvage Convention

This Convention entered into force on July 14, 1996. Canada, in fact, ratified it on November 14, 1994. A Working Group has been set up by the CMI to study certain questions raised about the Convention regarding special compensation for preventing pollution and damage to the environment during a salvage job. The House of Lords has recently handed down its decision in the "NAGASAKI SPIRIT" case with fundamental ramifications to this area.

h) Compulsory Marine Insurance or Evidence of Financial Responsibility

Most responsible shipowners have taken action to ensure that they are able to meet their liabilities. Roughly 90% of the world's shipping tonnage is insured through membership with P & I Clubs. A further 5% is believed to have other forms of security - either State liability or self-insurance. It is to the remaining 5% that this recent proposal is addressed.

i) General Average

The CMI overhauled the 1974 York Antwerp Rules at the Sydney Conference in 1994. There have been some second thoughts about the pollution provisions and a compromise may have been reached recently in London where such expenses would not fall into G.A., save those expenses for proceeding to a Port of Refuge. However, even that compromise may be in peril. The debate continues!

The Long Range Planning Committee of the CMLA met in Toronto on January 16th and in Ottawa on April 2nd when the Association's finances, our 50th Anniversary in the year 2001, the future of the CMI after its first 100 years and other topics were discussed. Several recommendations were made for the consideration of the Executive. If any of you have any thoughts about how we should celebrate our 50th Anniversary, please let our Secretary know.

I am pleased to report that we have formally created a \$1,000.00 annual bursary for worthy students in the graduate programme in maritime law at Dalhousie University. The Dean of the Faculty of Law has expressed her gratitude and those of her colleagues to the CMLA as it will enhance their capacity to attract the best and brightest candidates in the maritime law field. We have prepared a description of the "CMLA Bursary" which will be included in Dalhousie materials advertising the graduate programme. As the bursary commemorates the CMI's centenary, we will announce it at the Antwerp Conference.

CMI - Centenary Conference - Antwerp - June 8-14, 1997

Our Antwerp Planning Committee met again in Toronto on January 17, 1997 and in Ottawa on April 2, 1997. At the moment, it would appear that there will be 22 Canadian delegates. If anyone else is interested please let me know and I will send you a brochure. There will be panel discussions on Offshore Mobile Craft, a new Maritime Liability Convention, Electronic Data Interchange, Collision and Salvage, a Wreck Removal Convention, Maritime Liens and Mortgages/Arrest of Ships, Classification Societies and Carriage of Goods by Sea. There will also be a reflective look back on the past 100 years and, a discussion on the future of the CMI. The latter is, in our view, the most important subject at the Conference. We have prepared a paper on the subject and will speak to it at Antwerp as we believe that the CMI needs a change of direction and better internal procedures and work methods in order to meet the challenges of its second century. Fednav Inc. has very kindly arranged a luncheon on June 10, 1997 at Antwerp for the Canadian delegates, CMI Officers and Members of the Executive Council, Presidents of several MLA's and other distinguished guests. We are extremely grateful to Fednav for this.

Website

I am pleased to report that Chris Giashi will have our website in place shortly for all to visit on the Internet. Further details to follow.

Open Meetings

A very successful open meeting was held in Vancouver on March 3, 1997. The subjects for discussion were the *Fisheries Act*, *Canada Shipping Act* reform, Bill C-58 and a CMI Update.

The next meeting will be in Montreal on April 23, 1997 when developments in the right of arrest and Canadian Maritime Law/Provincial Law ramifications arising out of the Valleyfield Bridge case will be discussed. Please attend if you can. You will be most welcome. Details may be obtained from our Secretary.

There will be another open meeting of the Association in St. John's, Newfoundland this coming September to coincide with the Summit of the Sea Conference held between September 1 - 19, 1997. The Summit will be commemorating the 500th Anniversary of John Cabot's arrival in Newfoundland and will deal with a wide-ranging number of topics dealing with ocean management, offshore oil and development, and various fishing issues. Our open meeting will focus on the feasibility of a Comprehensive Convention on Offshore Units and Structures. Details to follow.

On April 2, 1997 several of us entertained the Chief Justice of the Federal Court of Canada (the Hon. Julius A. Isaac), the Hon. Mr. Justice Arthur J. Stone of the Federal Court of Appeal and the Hon. Mr. Justice W. Andrew McKay of the Trial Division to dinner at the Rideau Club in Ottawa. It was a very pleasant evening and an excellent opportunity for the Bench and Admiralty Bar to enjoy a frank exchange of views on issues of common interest in an informal setting.

Our Annual General Meeting has been scheduled for Friday, May 30, 1997. It will be held at the Badminton & Racquet Club, 25 St. Clair Avenue West, Toronto. This is just west of the Yonge Street and St. Clair Avenue intersection and a short walk from the St. Clair subway station. It will commence at 9:30 a.m. and, following its conclusion, there will be a luncheon at the Club. Following this there will be a meeting of the new Executive. I urge you to attend and invite you to mark your calendars accordingly.

I am pleased to say that we have two new constituent members who have recently joined. They are the Association of Marine Underwriters of British Columbia and TSI Terminal Systems Inc., both of Vancouver. I welcome them wholeheartedly. We also have a number of other new members to whom I extend a warm welcome as well.

Thank you all very much indeed for your interest, hard work and input. I appreciate the opportunity of serving you. Please call or write me with your comments and let me know if there is anything we can do for you. I look forward to seeing you at the Annual General Meeting in Toronto on May 30, 1997.

Nigel H. Frawley

President

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