



THE MAGAZINE OF THE IMO INTERNATIONAL MARITIME LAW INSTITUTE - MALTA. No. 20 /2007

THE LORD CHIEF JUSTICE OF ENGLAND AND WALES, THE RIGHT HONORABLE THE LORD PHILLIPS OF WORTH MATRAVERS, CONFERRED THE HONORARY DEGREE OF DOCTOR OF INTERNATIONAL MARITIME LAW

In recognition of his distinguished career and life-long service to the implementation, development and codification of maritime and commercial law, the degree of Doctor of International Maritime Law Honoris Causa was conferred on The Right Honorable The Lord Phillips of Worth Matravers, Lord Chief Justice of England and Wales, by the IMO International Maritime Law Institute. The ceremony was held at the Aula Magna, Old University Building, Valletta on March 30, 2007.

The authority of conferring honorary degrees under the Institute's Statute is vested in the IMO Secretary-General, Mr. Efthimios Mitropoulos, in his capacity as Chairman of the IMLI Governing Board.

The Lord Chief Justice has rendered many landmark judgments in several courts including the High Court, the Court of Appeal and the House of Lords which have influenced the development of international maritime law. He has made immeasurable contribution to international maritime law serving in different judicial positions including Lord of Appeal, Master of the Rolls and Head of Civil Justice.

Members of the diplomatic corps, the judiciary, and government, as well as distinguished academics, IMLI course participants and members of the IMLI staff were present at the ceremony.

The Lord Chief Justice has been a friend and ardent supporter of the work of the Institute. He has lectured at IMLI on a number of occasions since 1991. Annually, he generously arranges for IMLI graduates to visit the Royal Courts of Justice enabling them to attend Admiralty sessions.



The Right Honorable The Lord Phillips of Worth Matravers, Lord Chief Justice of England and Wales, is conferred the honorary degree of Doctor of International Maritime Law by the IMO International Maritime Law Institute

SPEECH OF THE LORD CHIEF JUSTICE OF ENGLAND AND WALES AT THE HONORIS CAUSA CEREMONY HELD ON MARCH 30, 2007

There are three reasons why this is a particularly proud and happy moment for me. The first is that this particular degree should be given to me in Malta, for it is to Malta that I owe my love for the sea and all things maritime. It is exactly fifty years ago that I first came to this island – having just been commissioned as a Midshipman in the Royal Navy. For the next year Malta was my home base to which I returned after expeditions to patrol Cyprus, where the British were under siege from EOKA. How well I remember the joy of sighting Malta on the horizon on the 5th day of our voyage back from Cyprus, slow steaming on one engine to save fuel and then smartly picking up our mooring in Sliema Creek – a Sliema Creek that looked very different from what you see today – filled with British warships, but fringed with simple buildings of one or two stories.

I got to know Malta – and Gozo well, for I had a friend in the Navy who had a Vespa, and on our shore leaves we explored the two islands on this. We were befriended by a rather terrifying but kindly elderly lady called Mabel Strickland, who would invite us to tea. I also have rather less happy memories of playing rugger on a rock hard pitch.



The Lord Chief Justice of England and Wales delivers his address

This apart, my days in Malta were very happy as were my evenings ashore in Valletta, whose glorious buildings you almost felt had been carved out of the rock and they remain essentially unchanged today, as does Grand Harbor, although it does not look quite as impressive as it did when it gave shelter to the Mediterranean fleet.

And thus it was that, based on this island, I acquired not only a devotion to the sea and ships, but the specialist knowledge and skills, that were to serve me so well in the early years of my career in maritime law. Maritime law has a quality that is shared by no other. It is all about adventures. Going to sea in ships, crossing the ocean from one country to another, navigating when out of sight of land by the sun and the stars – or even by satellite, has always had a touch, or even more of a touch, of romance. And so we still talk of a marine adventure and so much maritime law is concerned with the effect of the 'perils of the seas'. Where the perils of the seas give rise to a claim there will so often be a dramatic story to which the law has to be applied. The collision action or the salvage arbitration are obvious examples, but the same is true of many a claim under a bill of lading or on a policy of marine insurance. And the pleasure of earning one's living by the law of the sea is enhanced by the fact that so many one meets have themselves experience of the romance of the sea.

When I was a young Midshipman, based in Malta, I certainly experienced that romance. The joy of swimming in Homer's 'wine-dark sea', whether from the rocky shore or out of sight of land, when in calm weather under the Mediterranean sun our minesweeper had stopped for hands to bathe. But the Mediterranean is not always calm and I also have memories of wedging myself in the corner of the open bridge of my ship as it battled through one of those storms that so often seemed to blow up when we were off the shores of Crete.

In those days there were still ships driven by steam. My training included spending time in the engine room and you do not forget the friendly thump of the pistons of a triple expansion engine and the well into which the elbow of the piston plunged on each revolution, containing a rich and pungent emulsion of water and lubricating oil.

These memories have been revived by my visits to this island and that is one reason why receiving a degree here today is a particular pleasure.

The second reason is the participation of Professor Frank Wiswall in this ceremony. His powers of advocacy have already been demonstrated by his oration, for I had little

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ORATION FOR THE AWARD OF THE HONORARY DEGREE OF DOCTOR OF INTERNATIONAL MARITIME LAW TO THE RIGHT HONORABLE THE LORD PHILLIPS OF WORTH MATRAVERS, LORD CHIEF JUSTICE OF ENGLAND AND WALES DELIVERED BY PROFESSOR FRANK WISWALL

Today the Institute, in its eighteenth year of operation, awards only its third honorary degree.

The tradition of honorary degrees is an ancient one. The first in the English-speaking world is said to have been given by Oxford in the late 1470's, followed by Cambridge in 1493. Whether such degrees have been purely honorary or were awarded to reflect actual scholarly accomplishment may in some later cases be debated, but certainly the degrees given to Benjamin Franklin by St. Andrews in 1759 and to Samuel Johnson by Oxford in 1775 were in recognition of their world-respected eminence in science and letters.

Most degree-granting institutions confer honorary degrees on an annual basis, and some do upon special occasions as well. Of course to be fair, there are a number of leading universities in the USA including my own legal alma mater Cornell that do not award any honorary degrees at all. That is surely an overreaction; continental and British institutions – at least those of academic eminence – appear to have managed to avoid the pitfalls of wide dispensation of honoraria, though several years ago the award of a Litt.D. by Cambridge to Jacques Derrida (the “Father of Deconstruction”) was so controversial that several of the other honorees, including the late Professor Sir Geoffrey Elton, generally ranked the greatest historian of the 20th Century, threatened to boycott the ceremony.



The Lord Chief Justice of England and Wales with Mrs. Libby Wiswall, the Lady Phillips, and Professor Frank Wiswall

To come to the point, IMLI's resolve has been and remains to so honour only those persons who have made a genuine contribution in and to our particular field, whether by academic or judicial scholarship or by other significant achievement supportive of the Rule of International Maritime Law. In line with that resolve, our honoree today perfectly fits the mold.

Prior to his legal education Lord Phillips was introduced to this part of the world as a Midshipman in the Royal Naval Reserve, patrolling the Mediterranean. In 1958 he matriculated at King's College, Cambridge, graduating with a First in Law. He was called to the Bar by the Middle Temple in 1962 and his practise thereafter specialized in Admiralty and Commercial work. He served as Junior Counsel to the Ministry of Defence and the Treasury in Admiralty matters from 1973 until he was made Queen's Counsel in 1978, and thereafter served as Recorder until appointed Judge of the High Court in 1987. Sitting primarily as a Judge of the Commercial Court in the Queen's Bench Division, he also gained public recognition while presiding over the notorious Barlow Clowes and Maxwell prosecutions. Promoted to the Court of Appeal in 1995 he soon gained further distinction in his conduct of the inquiry, which lasted nearly three years, into the outbreak of BSE or “mad cow disease”; during this period he was elevated to the Judicial Committee of the House of Lords, and in 2000 was appointed Master of the Rolls and Head of Civil Justice. On October 1st, 2005 he was appointed Lord Chief Justice of England and Wales.

The IMLI students present with us today have known that at some point they would get a dose of legal history – that point has arrived, but you will get mercifully little. The office of Lord Chief Justice dates from 1268 (the first being Robert Bruce, Lord Annandale), and for the next 600 and more years was primarily associated with the Court of King's Bench. During that time such illustrious figures held the office as William Murray, Lord Mansfield in the 18th Century and Charles Abbott, Lord Tenterden in the 19th, the latter – you will recall – being the author of *Abott on the Law of Merchant Shipping*, a book that was for over a hundred years published in two

hemispheres in over a dozen editions. In the Judicial reformation of the 1870's the Court of Common Pleas – which also had a Lord Chief Justice – was swept away and the title of the surviving office became “Lord Chief Justice of England”; at a somewhat later date was added “Wales”. The most significant change in the office, however, occurred just less than a year ago with the entry into force of the Constitutional Reform Act 2005; amongst a number of other fundamental reforms – fascinating to the legal historian but not relevant to today's proceedings – the Lord Chief Justice became head of the entire judicial system. Our honoree is the first to bear that burden and that distinction.

If long connection with the institution is also a measure of qualification for conferment of the degree, then our honoree also meets that criterion easily. He delivered the graduation address at IMLI in 1991, and later returned to lecture in the academic year 2003-04. He has for many years facilitated the annual visit of our graduates to the Royal Courts of Justice in London, and throughout the whole period has been a strong and consistent supporter of the Institute and its mission. He has, in short, made himself known to be a friend of IMLI from its earliest days.

Going to a more personal level, Lord Phillips has kept himself in fighting trim – when he was first appointed to the High Court Bench he rode his bicycle several miles from home to the Law Courts, until the Metropolitan Police became (rightly) concerned for his safety. On the other hand, he is not only a superior judge of the law, but also of fine wines – a most admirable quality of which I admit having some first-hand experience. The attraction to Admiralty and Commercial law is also a family matter, his brother-in-law being Lord Mustill, the author of numerous works in the IMLI Library on maritime and commercial law and arbitration. But of all his achievements, reaching the pinnacle of the legal profession must take second place to our honoree's marriage. It is said that behind every man of great success there stands an astonished woman; I doubt that much could greatly astonish Christy, Lady Phillips. She is not only the underpinning force in support of her husband's career, but a scholar of the fine arts in her own right and an acknowledged expert in interior design. She is also quintessentially French, which makes it all the more remarkable that her husband boldly lists “France” as his only non-athletic hobby. I have heard many descriptions of France, but “hobby” is distinctly a first!

Next week we will be studying the law relevant to the collision of ships and other serious marine casualties. In 1970 there was a horrendous collision between two large oil tankers off the south coast of England; one vessel caught fire and there was a serious loss of life. A public inquiry into the casualty was held in London, with three young lawyers – or so we now think of ourselves – being involved together with older distinguished counsel. Two of the ‘youngsters’ represented the respective ships – one was our honoree and the other is today Sir Anthony Clarke, Master of the Rolls. The third chap represented the Flag State of both the ships, and speaks to you now. Over the intervening years we have all kept in touch, and I have observed the progress of their careers with fascination.

It is a matter of personal gratification for me to have claimed Nicholas Phillips as a friend and colleague for nearly forty years. I do here testify from my personal knowledge that in consideration of every facet of his character and in every aspect of his personal and professional life, IMLI does itself as much honour in conferring this degree as it does to Lord Phillips in thus publicly recognizing his significant contributions to the mission of the IMO International Maritime Law Institute and to the Rule of International Maritime Law.



The Lord Chief Justice of England and Wales with Mrs. Libby Wiswall, the Lady Phillips, Professor Frank Wiswall, and members of the Class of 2006-2007

WELCOME ADDRESS OF PROFESSOR DAVID ATTARD, DIRECTOR, IMLI AT THE HONORIS CAUSA CEREMONY

I am privileged and honored to welcome you to this Ceremony which constitutes an important landmark in the academic life of our Institute. The *raison d'être* of today's Ceremony is the desire of the IMO International Maritime Law Institute or IMLI (as we are internationally known) to honor an eminent and worthy personality who has, through his professional and judicial careers, greatly contributed to the progressive development of maritime law.

The history of international maritime law demonstrates the need for secure and stable legal prescriptions that regulate the destiny of men and women who expose their lives continuously to the whims of the indomitable sea. This quest has implied the necessity of continuously striving to develop and enforce new rules that are able to deal with the exigencies of new technologies and uses of the sea.

In this respect, IMO plays a vital role as it provides a unique forum wherein its member States regularly meet to codify and progressively develop international maritime law. Today IMO is responsible for some forty-two international treaties and literally hundreds of codes and standards.

The implementation and enforcement of these legal instruments into national legislation is however the key to attaining an effective and uniform international maritime legal order. This process requires specialized legal expertise which is often lacking, particularly in the developing world.

IMLI was set up in 1988 with the very precise task of training lawyers in international maritime law and its implementation through incorporation into domestic law. Since IMLI's establishment over 360 lawyers – mainly Government legal advisers – from over 104 States have undertaken legal studies and training in international maritime law at the Institute.

The IMLI LL.M. course offered is truly unique and a great challenge. It deals comprehensively with the full spectrum of international maritime law and provides participants with the necessary expertise to advise their Governments on the, often complicated, regimes of international maritime law.

Training at IMLI also aims at instilling legislative drafting techniques which enable its graduates to contribute to the elaboration of their national maritime laws by implementing international rules and standards thereby enhancing the international objective of uniformity and harmonization.

IMLI's success is best reflected by the academic and professional achievements of its graduates throughout the world. The large majority already occupy senior governmental and judicial positions. In the international fora, IMLI graduates have demonstrated a similar aptitude for success. It is often possible to find them leading national delegations to IMO meetings and diplomatic conferences. It is probably not an exaggeration to say that IMLI graduates are now actively participating and influencing the global process towards the codification and progressive development of international maritime law.

Distinguished Guests,

When the Institute's founding fathers decided to confer honorary titles, a great responsibility was entrusted upon them: the challenge of ensuring that only the most distinguished in the field of international maritime law would receive such honors. The authority of conferring such titles was vested in the IMO Secretary-General in his capacity as Chairman of the IMLI Governing Board.

I am extremely pleased and honored that Secretary-General Mitropoulos has decided that the Institute should honor The Right Honourable The Lord Phillips of Worth Matravers The Lord Chief Justice of England and Wales. The Honorand is a most eminent lawyer who has distinguished himself in the field of maritime law and also contributed over the years to the success IMLI now enjoys.

We are also privileged today to have in our midst Professor Frank Wiswall, himself an eminent maritime lawyer, a professor at IMLI and Honorary Vice-President of the

Comité Maritime International, which is an organization dedicated to the unification of maritime law in all its aspects. We are grateful that he has agreed to address us on the distinguished professional and judicial career of the Lord Chief Justice.

I also wish to welcome specifically two distinguished members of the international maritime legal community, the first is Professor Lee Sik Chai from South Korea, an eminent maritime lawyer who has been elected to Chair the IMO Legal Committee.

We are also pleased to have with us Dr. Philippe Boisson, the Chief Legal Adviser to Bureau Veritas in Paris, who is a world authority on international maritime safety law. Dr. Boisson has lectured at IMLI annually for fifteen years.



Mr. Norman Martinez reads the Motivation for the conferment of the honorary degree of Doctor of International Maritime Law on The Right Honourable The Lord Phillips of Worth Matravers, Lord Chief Justice of England and Wales

Distinguished Guests,

I wish to conclude on a personal note. I still remember vividly the Lord Chief Justice's Oration at the IMLI Graduation of 1991. It was an inspiring address wherein he recalled his first visit to Malta as a midshipman in the Royal Navy and drew upon his extensive experiences as Counsel in various major maritime cases. In those early years the Institute was facing doubts expressed in some quarters as to its viability. It was the support of eminent lawyers such as Lord Phillips who provided the impetus for IMLI's success. They lent their eminence to IMLI when it needed it most.

Throughout the years, despite his very active judicial career, Lord Phillips generously found the time to visit Malta and lecture on the finer aspects of maritime law. He continues to take a great interest in the welfare of our graduates. At the end of our LL.M. programme, a field trip to London is organized by the Institute to enable its graduates to visit its maritime institutions. Lord Phillips annually assists in ensuring the success of this field trip by kindly ensuring that our graduates attend admiralty sessions at the Royal Courts of Justice.

The Lord Chief Justice, I am confident, would readily agree with me that the achievements of his career are also to be attributed, in no small measure, to the support of Lady Phillips. We are grateful for her presence in our midst here today and for her wonderful charm which she transmits when she accompanies the Lord Chief Justice on his visits to IMLI.

Thank you.



The Lord Chief Justice of England and Wales with the Chief Justice of Malta, the Honorable Vincent de Gaetano, and members of the Maltese Judiciary



The Lord Chief Justice of England and Wales with Professor Lee Sik Chai, Dr. Philippe Boisson, Professor David Attard, and Professor Frank Wiswall

SPEECH OF THE LORD CHIEF JUSTICE... continued from page 1

difficulty in recognising the subject of it. But my relationship with Frank Wiswall goes back a long way. After the war ship-owners began to register their vessels in jurisdictions whose regulations imposed, or were thought to impose, less of a financial burden in relation to the costs of crew and maintenance. The expression of 'flag of convenience' began to carry with it an implication that was derogatory of the flag state. One such flag state was Liberia and Liberia came in for criticism when, on 23 October 1970 the *Pacific Glory*, a tanker registered in Liberia and laden with 70,000 tonnes of crude oil came into collision with another laden tanker called *Allegro* (also registered in Liberia) in the English Channel. The *Pacific Glory* was breached and was responsible for a considerable oil spill of about 25,000 barrels of oil. She was deliberately beached to prevent her sinking. Thereafter a skillful salvage operator resulted in some of the cargo being pumped out of the vessel after which she was refloated and towed into Rotterdam. Over 450,000 barrels of oil were recovered from the ship that would have caused a major maritime disaster had the vessel broken up.

The Liberian Bureau of Maritime Affairs responded swiftly and creditably to this casualty. They set up a Marine Inspection Service and they also initiated a formal Inquiry into the cause of the collision. The counsel who they chose to conduct this Inquiry was Dr. Frank Wiswall, whom they had had the prescience to appoint as their Legal Adviser and Admiralty Counsel in 1968, only a year after he had earned his Doctorate at Cambridge University and when he was only still 29. I was instructed to act for the *Allegro* at the Inquiry and Tony Clarke, a member of my chambers, who is now the Master of the Rolls, for the *Pacific Glory*. To our astonishment we were confronted for the first time with Frank, blowing through the English Admiralty Bar like a breath of fresh air, or rather a gale. Huge in stature, robust in approach, genial in bearing and clad in what we came to recognise as his hallmark, bright red socks. He strode up and down as he questioned witnesses in a manner that the likes of which English advocates had only witnessed on TV when watching Perry Mason. I vividly remember getting up to cross-examine the helmsman of the *Pacific Glory*. He came from a province of China so remote that there was no one who had a command both of his dialect and of English. So we had a chain of two interpreters. The first interpreted from English into Mandarin, and vice-versa. The second was from Mandarin into the dialect. My first question, just to get the witness relaxed, was "you were the helmsman of the *Pacific Glory*?" This was translated into a stream of Mandarin and thence into a stream of dialect. We waited with bated breath for the answer to come back up the chain. It was "please can you repeat the question."

This meeting with Frank was the start of a friendship that has lasted half my lifetime. Like me, I suspect that Frank's attraction to maritime law had its origin in his

love of the sea, for he has held a US Coast Guard Certificate for Near Coastal Steam and Motor Vessels for close on fifty years. I have, alas, never sailed with him and Libby, but I have no doubt that his seamanship reflects his eminence in the field of maritime law and, in particular, the distinguished posts that he has held, both in the IMO and the CMI. He is of course, one of the main stays of the Institute, having been a teaching fellow here for the past sixteen years. The part that he has played in this ceremony, adds very greatly to my appreciation of that honor.

The third reason why I am particularly proud and happy to receive this degree is the most important. It is the eminence of the Institute that is awarding it. Malta was a natural place for the IMO to establish an International Maritime Law Institute. It is, and always had been, an important maritime stronghold at the cross-roads of the Mediterranean as its name indicates, for I understand that it has its origin in the Phoenician Malat, or 'safe harbor'.

The Institute was established in 1988 and since then I have watched it grow from a relatively modest beginning to a post-graduate establishment of high international standing. Government agencies around the world vie for the limited places so that they can send their most able graduates to gain specialist expertise in maritime law, maritime safety and environmental protection and some practical acquaintance with the maritime institutions that are based in London. It has been my pleasure, not only to visit the Institute in Malta, but to welcome each year the students on the course when they come to London. I have, if I may say so been particularly impressed in recent years with the calibre of the students that I have met and the bewildering variety of backgrounds from which they come.

The success of the Institute owes much, of course, to the man who has been its Director for the last 15 years, Professor David Attard. He is, I am happy to say, a fellow member of my Inn, the Middle Temple. His election last year as Pro-Chancellor and President of the Council of the University of Malta reflects his high international reputation. While the universal concern for global warming is a relatively recent phenomenon, it was David Attard who was responsible, nearly 20 years ago, for putting in train the events that led in 1992 to the conclusion of the UN Convention on the Prevention of Global Warming.

David and the Institute have given me and my wife the most generous welcome on the previous occasions that we have come to Malta. Our experience on this occasion is no exception. May I thank the Institute for the hospitality that we have received and are about to receive, but in particular for the very great honor that they have conferred on me today.

PREVIOUS CONFERMENTS OF HONORARY TITLES AND DEGREES



Professor Frank Wiswall, Mrs. Walter Müller, Mrs. Libby Wiswall, Mrs. Ugo Mifsud Bonnici, His Excellency, Dr. Ugo Mifsud Bonnici, President of Malta, Professor David Attard, and Professor Walter Müller during the ceremony held on March 30, 1999 where the title of Honorary Professor of International Maritime Law was conferred on Professor Wiswall and Professor Müller



Dr. Joe Fenech, Professor David Attard, Mr. William Birch Reynardson, His Excellency, Professor Guido de Marco, President of Malta, Professor Francis M. B. Reynolds, and the Honorable Censu Galea, Minister for Competitiveness and Communication of Malta, during the ceremony held on March 17, 2000 where the title of Honorary Professor of International Maritime Law was conferred on Professor Reynolds and the honorary degree of Doctor of International Maritime Law was conferred on Mr. Reynardson



Professor Francesco Berlingieri and Reverend Professor Peter Serracino-Ingloft during the Honoris Causa held on January 10, 2001 where the title of Honorary Professor of International Maritime Law was conferred on Professor Berlingieri and the honorary degree of Doctor of International Maritime Law was conferred on Reverend Professor Serracino-Ingloft



Mr. William O'Neil, Secretary-General Emeritus of IMO, is conferred the Award for Meritorious Contribution Towards the Progressive Development and Codification of International Maritime Law by the IMO International Maritime Law Institute

"Serving the Rule of International Maritime Law"