



### **EDITOR OF BENEDICT'S MARITIME BULLETIN LECTURES AT IMLI**

Dr. Bruce King (The Ship Finance and Fisheries Editor of Benedict's Maritime Bulletin) visited IMLI and delivered two lectures on "Bareboat Charters" and "Registration of and Mortgages on Ships under Construction: A US Perspective", respectively.

Dr. King's first lecture focused on a review of bareboat charters under Anglo-American law. After distinguishing bareboat, time and voyage charters, Dr. King discussed the essential legal nature of a bareboat charter as a bailment for hire at common law, and how that fundamental relationship affects the rights and obligations of the parties as the source of the implied terms of a charter relationship that apply unless a written agreement alters them. This was followed by a discussion of the allocation of risks between the owner and bareboat charterer and any liabilities to third parties, such as responsibility for latent and patent defects at the inception of the charter, unsafe conditions on delivery due to negligence, incidents giving rise to strict liability, and *in rem* obligations. The foregoing provided a basis for discussions of common bareboat charterparty provisions that further specify, or that change these common law allocations of rights and responsibilities, with particular reference to the BIMCO Form BARECON 2001.



*Dr. Bruce King and the IMLI Class of 2012/2013*

The second lecture concerned ship construction financing, both from a comparative law and from a commercial perspective. The Canadian and German systems of permitting vessels under construction to be registered and to become subject to ship mortgages were contrasted with the alternative system that is used in the United States and elsewhere, whereby a vessel under construction is financed as a common non-maritime chattel until the vessel is completed, delivered, and registered in a flag state. Then Dr. King discussed the physical process of construction from a collateral point of view: a “vessel under construction” consists of the incomplete hull, raw material (such as steel plate to be added), raw material that is first formed into sub-assemblies (such as bulbous bows), and purchased equipment (such as engines, deck winches, and wheelhouse electronics) that may be furnished by either the builder or the buyer. Also, while under construction the vessel may be owned by the builder or title to the project may be continually passing to the buyer. In addition, purchased items often become property of the builder or buyer upon shipment from a manufacturer, so the collateral is not necessarily located at the shipyard. Lastly, the builder or the buyer may be the borrower from the lender. The construction lender always would want an enforceable security interest in all of this property under all permutations of the location and ownership of the property, and whether the builder or the buyer is the borrower, the lender would want in case of default to enforce the construction contract and to “step in” to the borrower’s position under the contract. There was also a general review, from the construction lender’s point of view, of builder’s risk insurance, construction bonds, completion guarantees and letters of credit.

This was Dr. King’s first experience at IMLI. He found the students to be alert and engaged. Based on the students’ questions during the lectures and afterwards, he found that their level of comprehension was high, and that the students were very interested in the practical, or

applied elements of the business transactions that were being discussed. Dr. King observed that IMLI has a high energy level in the student body and in the faculty, and was impressed by the comprehensiveness of the IMLI library.

Dr. Bruce King is the ship finance and fisheries editor of Benedict's Maritime Bulletin, and serves on the National Advisory Board of the Maritime Arbitration Association of the United States. He recently retired from his maritime law practice at Garvey Schubert Barer in Seattle, where he practiced vessel financing and maritime regulation and business law. Dr. King is the immediate past chairperson of the Marine Financing Committee of the Maritime Law Association of the United States, and is a past member of the association's board of directors. He was formerly the chairperson of the Subcommittee on Maritime Financing within the Section of Business Law of the American Bar Association. He testified for the Section of Business Law at the U.S. congressional hearing on the 1988 recodification of the Ship Mortgage Act, and was the author of the ABA draft of that legislation. He has lectured on the American legal system and on international business transactions at the University of the Netherlands Antilles and as a Fulbright Senior Specialist at Comenius University in the Slovak Republic. Before practicing law Dr. King earned a mate's license in the U.S. Merchant Marine after service on a coastal ferry and in the tug and tow sector.

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