



**Maritime Law Association of Australia and New Zealand  
Annual Conference  
Opening Address**

**9.00am, Thursday 2 October 2003**

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**Chief Justice Paul de Jersey AC**

May I at once add my own welcome to you all to this jurisdiction – usually dubbed the “Sunshine State”: though I’m sure it won’t be the dullness of the weather outside which ensures full attendance at the sessions.

In the inaugural F S Dethbridge Memorial Address, Sir Ninian Stephen observed that:

“there remains a special flavour to maritime law. It brings into lawyers’ lives the musky fragrance of far-off lands and the curiosities of systems of law remote from our own ... [It] conjures up heady imaginings, tall ships and stars to steer them by, the Spice Isles, the coral isles, and Greek isles in a wine dark sea.”

Few areas of the law would bathe the practitioner in such romantic imagery, and of course there is more to maritime law than dreamy holiday snapshots. Nevertheless, with those words in mind, it will hardly come as a surprise to hear me declare my pleasure at being invited to open this annual conference!



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That pleasure is, of course, enhanced by the opportunity to be associated with a professional association of such impressive standing in the legal and commercial community. The Maritime Law Association of Australia and New Zealand was founded in May 1975 on the initiative of the late Frank Dethbridge, its first president. The Association's contribution to maritime law in this region since that time has been unparalleled. In a foreword to the first collection of F S Dethbridge Memorial Addresses, P G Willis, also a long-standing president, wrote of "the standards of erudition and interest for which the Association is, I believe, justly famed." Those characteristics are enduring ones, and remain evident today. I trust I will be pardoned for expressing special pleasure, not only because this year's conference occurs in Brisbane, but also for the Presidency of my colleague Justice Philippides.

The theme for this year's conference is "The Global Maritime Community – Meeting New Responsibilities and Challenges." That theme is appropriately aspirational, and accurately denotes a maritime legal system continually evolving over time. Indeed, maritime law is an ancient discipline; the Island of Rhodes probably promulgated a maritime code as early as 900 BC. Justinian's Digest recounts a statement by the Roman Emperor Antoninus:

"I am indeed lord of the world, but the Law is lord of the sea. This matter must be decided by the maritime law of the Rhodians, provided that no law of ours is opposed to it."

Antoninus's judgment reflects a curious, but effective, judicial technique of declaring the judge's global pre-eminence, while simultaneously shifting responsibility for making any actual decision.



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Through the Tablets of Amalfi, the Laws of Wisby, the Rules of Oleron and even the slightly less glamorously titled *Admiralty Act* 1988 (Cth), maritime law has remained a sphere in which lawyers have devoted considerable time and effort. The importance of transportation and trade by sea has ensured the field is rarely neglected. In the recent past, this has been reflected in an ever-increasing range of international instruments and judicial decisions of international bodies, directed to the achievement of harmonisation. The relationship between shipper and carrier is governed by the now ubiquitous Hague-Visby Rules and Hamburg Rules. The 1982 United Nations Convention on the Law of the Sea today looms large in questions of public international law. And questions arising in relation to that convention are determined primarily by the International Tribunal for the Law of the Sea.

As an aside, upon such recognition of the Tribunal and its work, it is apposite to acknowledge the contribution of Judge Dollivier Nelson, the President of the Tribunal. Judge Nelson has prepared this year's F S Dethbridge Memorial Address, and thereby makes a striking addition to an already impressive list of eminent lawyers who have delivered this prestigious address. I am sure you look forward to his discussion of the recent *Volga* case, though it is obviously a matter of regret he cannot be here in person.

Of course, maritime law continues to evolve, as the international maritime community is faced with unprecedented challenges. The *Volga* case itself related to a vessel engaged in fishing for the hitherto unfamiliar but now widely-known Patagonian toothfish. That evolutionary process will continue as long as there are sea trade and maritime transportation. In shaping the law's development,



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members of the maritime community face responsibilities to stakeholders ranging from shippers to carriers, from environmentalists to governments. I commend Justice Philippides on ensuring this conference is not monopolized by lawyers. I was very pleased last night to note the presence of industry, government and regulatory authority representatives: that can only enhance the practical grasp of your deliberations – this body of law is rooted in matters fundamental to human progress, and especially now. A particular friend of the State of Queensland, Mr Gregory Hadjieleftheriadis, President and CEO of Eletson Corporation recently encapsulated the issue succinctly:

“In looking at the impact of globalization upon our lives came the realization that maritime transportation is truly the architect of globalization ... With the role of maritime transportation as the architect of globalization comes responsibility.”

Ladies and gentlemen, on that cautionary note, I will detain you no longer from the impressive program of speakers arranged by this year’s organising committee. I trust you will find the schedule fulfilling and, with good fortune, at least half as enjoyable as Sir Ninian Stephen apparently found maritime law!