



# SEMAPHORE

Newsletter of the Maritime Law

Association of Australia and New Zealand



## Q&A with Ian Maitland

In this edition of *Semaphore*, we are launching a new article series, whereby we look back through the careers and lives of senior, experienced members of the MLAANZ community. Our first subject in this regard is Adelaide-based Wallmans Lawyers partner Ian Maitland.

### ***Do You Recall What First Attracted You to a Career in Law and Was There Any Previous Family History in the Profession?***

Interestingly, at the commencement of Year 9 at school I was asked if I intended to be a lawyer as if “yes” I would need to study Latin. My answer was “no”. It was not until Year 11 that I considered university and applied and was accepted. Latin was no longer a requirement.

The only person I knew who was a lawyer was an uncle who I barely knew.

I completed Articles as was the requirement then and was admitted to the South Australian Bar (South Australia has a fused profession). After several years of legal practice I joined the Adelaide firm of Finlaysons. At that point I was mainly involved in workers’ compensation and industrial law. I was sitting in my office one day and the senior partner, the late Michael Astley, came in and asked me if I would be interested in taking on the maritime practice. Without hesitation I said “yes”. I should add that prior to my arrival at the firm the maritime practice was handled by a very eminent lawyer, Morella Calder.

Sometime later I was informed by Michael Astley that he had been visited by one of the P&I Club people who complained about how Finlaysons had been dealing with maritime matters. He also said that “I note that Ian Maitland has recently taken over but clearly he does not know much” (or words to that effect). He was correct and thus it was agreed for me to spend a year in London. This led to an exchange between myself and Richard Church who then was a partner at Richards Butler. That was the year that “made me” – I learned a lot and had the opportunity to visit all of the P&I Clubs in London and Scandinavia.

I am sure that the P&I Club person referred to above will allow me to disclose his identity because we have become very good friends and I have several times thanked him for helping me to launch my shipping legal career. He is very well known to those of us who have been around for many years. He was a regular visitor to Australia, James Dowson!



*Wallmans Lawyers partner Ian Maitland*

## ***Are There One or Two Particularly Interesting Cases Over the Years of Your Involvement You Would Like to Briefly Reference – Focusing on Your Personal Outtakes From Those?***

### ***Gemini***

Very early in my career I acted for a Lloyds underwriter in a scuttling case. This vessel was a fishing vessel and it sank whilst purportedly out fishing. Investigation was undertaken and suspicions were raised. The matter proceeded in the Supreme Court of South Australia. We had a key witness who was prepared to give evidence that prior to the voyage virtually everything was stripped from the vessel – ie, all fishing gear and basically everything of value except life jackets. Somehow the defendants became aware of this witness and he received threats and thus we appointed an ex-policeman/now private investigator to look after him until he gave his evidence. It also came out that there just happened to be another fishing vessel very close by and the crew were able to rescue the crew of the Gemini. There was an interesting side story to this. Between the incident and the trial, Paul Keating as Treasurer devalued the Australian Dollar which meant that if the plaintiffs had succeeded the insured sum was approximately two-thirds of the original.

### ***Maria Luisa***

This is a leading case on ownership as per the Australian Admiralty Act. The fishing vessel Maria Luisa was arrested in relation to a claim brought by a diver who claimed personal injury caused by diving and suffering “the bends”. The vessel was owned by a trust, the sole beneficiary was a Mr Sarin. I briefed Greg Nell (not SC at that stage). Both Greg and I formed the view that the Federal Court would probably accept the arrest as Mr Sarin was the sole beneficiary of the trust. However, a Judge of the Federal Court said “no”, the Full Court agreed and leave to the High Court was refused. An interesting aspect was representation in the High Court. I asked Greg if he was happy to appear without a senior, he said “yes” but indicated that the High Court preferred senior counsel. Thus we briefed Brian Rayment QC. After hearing counsel for the appellant the three Judges said “we do not need to call on you Mr Rayment”.

### ***Brief Bio***

Wallmans Lawyers describes partner Ian Maitland as a skilled commercial litigation lawyer with specialist expertise in general commercial litigation, insurance, transport, shipping and employment law.

“He is highly regarded within the marine insurance industry and has a significant number of major clients in the sector,” states the Adelaide firm.

A lawyer for more than 30 years, Mr Maitland joined Wallmans Lawyers in 2004 after heading his own practice and working as a partner at another firm in the state.

“With a strong focus on transport law over the past 20 years, Ian advises companies on all aspects of transportation. He has expert knowledge regarding the vagaries of the terms and conditions of transporting goods, and issues such as liability and jurisdiction.

“As a result of his significant expertise in transport law, Ian has been recognised since 2012 in the preeminent *Best Lawyers Australia* list for his experience in transport law, as well as in shipping and maritime law. In 2019 and 2021 he was recognised as the Transport Law, Lawyer of the Year (Adelaide). Additionally, he has been listed in *Doyles Guide* of leading Australian shipping and maritime lawyers, as well as international recognition in various maritime and transportation directories, guides and awards.”

Mr Maitland has been involved in a broad range of commercial litigation matters, including insurance and contractual disputes, professional negligence and environmental prosecutions, industrial disputes and trade practices.

## *Amarantos*

This vessel partly demolished the wharf at Wallaroo (a town on Yorke Peninsula). The wharf was damaged but more importantly the grain loading gantry was brought down. The claim for damage to the wharf was relatively small and easy to resolve. The claim for the gantry was also relatively easy to assess. However, the significant issues were “non-economic claims”. As it turned out, we managed to minimise those claims and the overall cost was reasonable. I did learn one incidental thing – if a ship collides with an object it is an allision!

## ***If Not Covered Above, What Events/Highlights During Your Career Are You Most Proud of and/or Have Provided the Most Satisfaction?***

I have had six cases (not all shipping) which have gone to the High Court, some just for leave and others for hearing. I have a 100% success rate.

Also, regularly being listed in *Best Lawyers Australia*.

## ***Have There Been One or Two Colleagues in Particular Over the Years Who Have Held Particular Place in Heart?***

I have already mentioned Michael Astley who, for a very short time as a young lawyer, was responsible for the maritime practice at Finlaysons. He was an outstanding commercial lawyer and businessman, eventually serving on several high profile boards, but at all times retained humility. His philosophy at Finlaysons was “clients and staff first and foremost and yes, we want to make money, but always keeping in mind the client”. I also again mention James Dowson who encouraged me to obtain expertise and became a great supporter.



*At Port Adelaide*



*Sailing from the Royal South Australian Yacht Squadron with family and friends (Ian Maitland pictured centre-back)*



When I started in the area I had no profile and I took the view that I needed to establish myself. Two people in particular who helped me with that were Ron Salter and Stuart Hetherington. I was MLAANZ treasurer when both Ron and Stuart were presidents and with their help I was able to indeed become established. Also, I have been greatly assisted in cases by Greg Nell SC and Matthew Harvey KC.

***Have There Been Any Difficult Moments in Your Career That You Might Care to Also Reference?***

I was involved in a case with Tim Hancock as counsel. I had a very difficult client. We had started in court and at the end of day one we put forward an offer which was rejected. We were instructed to re-put the offer.

Due to the time difference between Sydney and London, the client was unavailable. We were told that the offer could remain open. Later, the other party accepted and so we settled. We advised the client who blasted us for not contacting her. I explained that we had her instructions to put the offer which was accepted.

Not too serious, but as it was a big matter with several claims somewhat concerning.

***Do You Have Any Particular Personal Mantras or Processes You Swear by?***

I have referred above to Michael Astley and his philosophy, and have tried at all times to follow that approach and to add “also have fun – enjoy the challenge!”

***What Have You Personally Most Enjoyed/Valued About Membership to MLAANZ?***

I joined MLAANZ in 1972 and the conference that year was my first. As mentioned above, serving as treasurer and later as president were highlights. The Association has always provided good, continuing education and promoted camaraderie. I have developed many lasting friendships because of MLAANZ.

***Would You Also Like to Include a Brief Mention of Your Family and Your Non-Work Activities?***

1979 was a turning point as I met my wife, Julie, and we were married in 1980 – the best decision of my life. We have three boys and one daughter and three grandsons and our youngest son, Will, works for the North Standard P&I Club (initially in London but now in Melbourne). Incidentally, Will attended the 1990 conference in New Zealand as a three-month-old.

***What Are Your Plans Now and for the Future?***

Retirement is around the corner but I still enjoy what I do, so maybe next year.

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