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Liverpool needs help

LIVERPOOL both rose and fell as a maritime city, with its decline in recent decades aptly summarising Britain's loss of dominance in areas such as shipping and shipbuilding. The port is just about all that remains of its seafaring heritage.

In the current climate, to erect bureaucratic restrictions on its chances of extracting the maximum benefit from the cruise industry is unconscionable.

Yet that is precisely what could happen if the voices arguing against allowing its municipally-

owned cruise terminal to handle turnarounds are heeded.

It is true that the facility was constructed with European Union funds, expressly on account of the region's economically depressed status, and that a ban on starting and finishing voyages was part of the deal.

It is also true that ports elsewhere in the UK have paid for similar terminals from their own resources. Associated British Ports can point to its £30m (\$46.4m) plans to build the largest turnaround facility in northern Europe in Southampton.

Liverpool is dependent on public sector employment, and it is widely predicted that it will feel the impact of the government's public spending cuts more sharply than anywhere else in the UK. It is difficult to have confidence that the private sector can make up all of the slack.

The fact remains that the terminal is now built, and the only quibble is over the precise purposes for which it should be used.

Lloyd's List has a default position against state subsidies for any part of the maritime sector. But here

the circumstances are exceptional. There are reports that Chancellor George Osborne is backing Liverpool City Council's application for the restrictions to be lifted, and we trust that UK Shipping Minister Mike Penning will come round to the same point of view.

Canal doesn't leak

GIVEN that the Panama Canal was administered and controlled by the US until the last day of the last millennium — indeed, the way in which the world's sole superpower clung onto the artery rather resembled a jealous toddler refusing to let other children play with its favourite toy — it is hardly surprising that it has turned up in the US diplomatic cables being published by Wikileaks.

What is surprising, however, is the divergence in evaluations of the canal expansion project between the US ambassador and senior Panamanian politicians. Ambassador Barbara Stephenson comes across as remarkably sanguine in her

assessment of the project's progress, despite being told, on separate occasions, by both the vice-president and president of Panama, that there were concerns over the consortium's ability to work to its deadline.

Other than the comments of these senior figures, there is little evidence of the expansion project being significantly off schedule. From the outset, it was clear that the government and the canal administrators understood how important it was for them to deliver a world-class expanded canal.

The canal is the country's *raison d'être*, its fortunes determined by the efficiency and capacity of the canal, and in that respect it was important not only that the winning construction consortium deliver on time and on budget, but also that the tender process and bid evaluations were conducted in an open and transparent manner.

The US embassy is unequivocal that it was; confidential comments by Panamanian politicians that something was awry smell more of domestic political point-scoring. ■

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Industry Viewpoint



JOHN AC CARTNER

Master of all she surveys — or not?

As Cunard appoints its first female master, what are the principal duties she will be taking on that encompass the role of a ship's chief executive?

WHAT does a master do? It is a curious position, unique in employment, fraught with mental, physical and legal dangers.

Hats off to Cunard for appointing the first female as master in its 170 years. May Inger Olsen always have following winds, calm seas and prosperous voyages. It is fitting that she now commands the *Queen Victoria*.

The shipmaster has five duties. She must keep safe the ship, people, cargo, voyage and environment. The master acts under the flag state warrant, her professional discretion and by communicating with the owner.

She must keep the ship safe as a costly company asset entrusted to a selected few. She must keep the people safe who are safer on the ship than off. She must keep the cargo safe because she is entrusted with it and it represents revenue.

The master must safely prosecute the voyage because if she does not, things to which she owes duties are jeopardised. She must keep the environment within her local control by operating safely and leaving no footprints. The devil is in the details.

Surrounding her duties are her status as owner's agent. There she owes the owner the duties of following orders, conserving assets, not exposing him or her to unnecessary liability, reporting regularly and by warrant and law exercising her command discretion prudently. Violating a duty is violating the agency.

The certificate grants her many powers to enforce the flag state's laws. The owner cannot operate the ship without a master. The master must have an owner. May the master disobey the owner? The short but accurate answer is "Yes". Let's take three examples under the doctrine of agency of necessity.

The master is in the same port as the owner. The weather is making up and the master has taken all precautions. The ship is bunkering. The owner decides that he or she would like to see the ship and shows up asking to board. May the master deny the request? Yes.

Within the master's duties are the denial of boarding to any person for his or her safety and for the safety of the ship, the people on board, the cargo, the voyage and the environment. The bunkering, the thunderstorm the master expects and the beginnings of a good gale of wind are all reasons for denial.

Does that change the master in law? She is an employee at will. With her command discretion she is upon her denial a bailee pro tem of the ship. That means that she has custody of the ship during the danger and may exclude all comers — including the owner.

Does the baileeship pro tem expire when things are safe? It depends. If no reasonable danger replaces it she would justify only with difficulty and could be made redundant if she cannot.



Leading the way: Inger Olsen now commands Cunard's *Queen Victoria*.

At sea in weather the master is on the bridge at night manoeuvring. The owner is taking a free trip. The ship is in substantial motion. The owner comes to the bridge — wild-eyed — and begins to direct the helmsman.

The master countermands and orders him restrained and returned to his stateroom, where the chief mate explains the master's reasoning. The master is an employee at will but exercising her duties as a bailee pro tem where she may exclude all comers. When the danger passes is she still a bailee? Only if the master as a prudent master says she is by her acts or words or the ship is in a safe port.

The master of a small bulker in a one-ship outfit is in a small South American ore port. She is running out of funds for payroll, repairs and provisions.

Neither the owner nor the minimised staff return her calls for 96 hours. The master is beginning to contemplate the dwindling moneys and her wages and ticket home.

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She goes ashore. The agent denies her. The agent has neither been paid nor can reach the owner. The master prudently seeks legal counsel and learns that she can borrow money against the ship for the needs of the vessel and the voyage and the exercise of the other duties by a pledge in bottomry against the vessel in the stead of the owner.

She goes to the bank, borrows the money in the name of the owner, pledges the ship as security, pays the bills and awaits orders, dutifully trying to call the owner four times a day.

What is the master? She is an employee at will. She is a bailee pro tem up to the time she borrows the money. But she must be something else to borrow the money because a bailee has no claim to the title of the property. Therefore the master as bailee pro tem becomes a constructive trustee.

The constructive trustee may borrow the money because in that circumstance the master as trustee holds constructively the title of the vessel. The trusteeship expires as soon as the loan is closed. The owner has the liability. The master as bailee pro tem does not. She holds the money and accounts for it as an agent doing her duties. ■

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Maritime Blogspot

Time to follow Norway's lead on NOx to deal with SOx

IT MAY come as no surprise, but the Norwegian government has extended its NOx tax system until 2017.

When it comes to government incentives that support environmental goals and have the backing of industry, I can think of no better. It is a unique state-derived system that pleases all.

For its next goal, it wants to see the NOx emissions reduce by a further 16,000 tonnes by 2017, added to the original 19,000 reduction from 2008.

The process is relatively simple. A shipowner pays the government NKR16 (\$2.67) per kilogramme of NOx its ship emits in Norwegian waters — or it pays NKR4 into the NOx fund. The choice really is simple — and all the owner has to do is to state what will be done to curb NOx emissions.

The fund then makes the collected sums available for abatement technology to be installed, or research into new ideas. When a shipowner fits new kit, their NOx emissions go down and they pay less into the fund.

Most Norwegian ships have turned to selective catalytic reduction — or, as many people know, use natural gas.

The fund is managed by an industry consortium, not by the government, and it lists on its website the available technologies that can be used. The list is quite extensive.

The NOx fund is not just aimed at the shipping industry, but industries across Norway, as the country targets its obligations under the Gothenburg Protocol on NOx reductions.

Surely this idea, or something like it, can be utilised elsewhere in Europe to counter the worry about SOx.

Like NOx, SOx is a local source pollutant that impacts human health. It can be reduced by one of two basic means: there is the option to remove it from the engine emissions, just as an SCR does with NOx; or it can be reduced by changing fuel, either low sulphur distillates or to liquid natural gas.

The former is the one that Stena Lines' Dan Olsson and other shortsea shippers are worried about, as it will give them extra costs they say they will pass on to customers — and so cause them to send freight via the roads instead.

So give the shortsea shippers the challenge of taxing them for their SOx emissions over the Marpol limit and put cash into an industry fund — and then use the fund to help offset the challenges they face, as they face them.

After all, even the oil industry wants to keep on selling heavy fuel oil to the shipowners. They know that otherwise no-one else will want it. ■

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