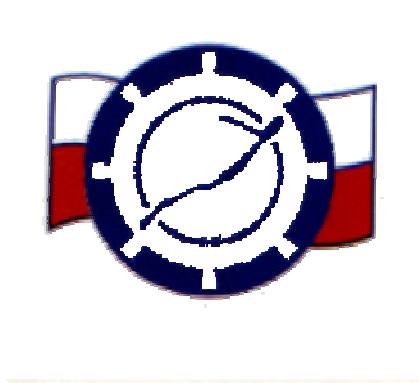


Submission to the International Commission on Shipping

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Canada |

The Laurentian Pilotage Authority

The mandate of the Laurentian Pilotage Authority (situated in Canada) is to operate, maintain and administer, in the interests of safety, an efficient pilotage service on the waters of the St Lawrence between Les Escoumins and the north gate of the St Lambert lock, on the Saguenay River and in Chaleur Bay. The mandate was enshrined in the 1972 Pilotage Act.

Subject to the concurrence of the Governor in Council, the Authority regulates establishment of compulsory pilotage districts, exemptions from compulsory pilotage, pilotage fees and classes of pilot licenses and pilotage certificates issued. The Authority is required to charge fair and reasonable fees that will enable it to be financially self-sufficient.

In order to fulfil its mandate, the Authority has established three compulsory pilotage districts: one for the Port of Montreal, another for the navigable waters between Montreal and Quebec City, and a third for the navigable waters between Quebec City and Les Escoumins, including the Saguenay River. These districts represent a distance of 265 nautical miles from Les Escoumins to Montreal, and another 70 nautical miles on the Saguenay River.

Employee pilots, who direct ships within the port limits, serve the Port of Montreal. Contract pilots who belong to one of two corporations provide services on the navigable waters between Montreal and Les Escoumins. Pilot boats are used to ferry pilots between ship and shore. The Authority owns and operates a pilot station at Les Escoumins with pilot boats capable of carrying pilots year-round including during the ice-infested season. The other stations (Quebec, Trois Rivières, Sorel, Lanoraie and Montreal) are served by private companies under contract to the Authority.

The pilot assignment system operates 24 hours a day, seven days a week. A dispatch centre in Quebec City is responsible for assigning pilots on the stretch between Quebec City and Les Escoumins, including the Saguenay. Another centre in Montreal assigns pilots working between Montreal and Quebec City.

Issues

The Laurentian Pilotage Authority supports the work of the International Commission on Shipping in its international ship safety enquiry. The Authority views the activities of sub-standard ship owners and operators as intolerable and supports efforts to achieve compliance with international minimum safety, environmental and social requirements.

LPA would like to bring to the attention of the Commission the issues of bridge manning and abused crewmembers raised in the article excerpts reproduced in Appendix I and II. The Authority is concerned that the lives of passengers aboard insufficiently manned vessels may be put at risk by a heavy burden of information. The Authority is also concerned about the instances of abused crewmembers its pilots sometimes encounter.

LPA's Role

Deficiencies

LPA and its pilots are required by Canadian laws and regulations to report to Government authorities deficiencies in equipment and procedures onboard vessels to which they provide services. These are communicated to the Ship Safety Branch of Transport Canada via the Canadian Coast Guard Marine Traffic System.

Bridge Manning

LPA regulations require the presence of two pilots aboard most passenger vessels navigating the St. Lawrence. If they notice that bridge manning is insufficient, pilots will request that the number of officers on bridge or lookouts be increased. Pilots are required to report incidences of insufficient bridge manning to Government authorities. This is normally communicated to the Ship Safety Branch of Transport Canada via the Canadian Coast Guard Marine Traffic System.

Abused crew members

Pilots providing services for the LPA are sometimes witnesses of crewmember abuse on sub-standard vessels. The most frequent cases are of crewmembers that have not been paid for a long time or are not clothed properly for our climate. In these instances, pilots will alert port authorities and also port chaplains who will review the circumstances with proper authorities.

Conclusion

The Laurentian Pilotage Authority will continue to vigorously encourage pilots to enforce present requirements to report sub-standard vessels and abuse of crewmembers. The Authority supports an enforcement strategy in line with applicable international law that will achieve compliance with minimum safety, and environmental standards.

Norwegian nightmare

Collision report slams safety procedure

Fairplay June 8, 2000

"EVEN with the benefit of hindsight and a simulated reconstruction... it is hard to see a simple solution to the situation which faced [the Officer of the watch]." So says the Bahamas Maritime Authority (BMA) in its report into the August 24,1999 collision between the cruise ship *Norwegian Dream* and the container ship *Ever Decent*, published last month. However, there are indications within the report that the cause did not only lie with the lone man on the bridge but also with the failure by Norwegian Cruise Lines to enforce its own safety procedures.

The BMA report analyses the events of a one-hour period from the change of watch keeping duties on the bridge of the *Norwegian Dream* at midnight to the collision at 0055. It chronicles the pressure that built up on the shoulders of a single officer responsible for navigating a cruise ship with 1,750 passengers and 638 crew on board. That pressure steadily increased until he found himself in a position in which a collision with one of the nearby vessels could not have been avoided.

In a presentation at a London conference on Safety of large passenger ships on May 16, BMA deputy director Douglas Bell told delegates: "Virtually all accidents are due to human error, but not necessarily the human closest to the incident." Bell recognised that it is necessary to look behind each accident to see why mistakes were made. "Many of the problems arise much earlier in the process, during the formation of regulations and their implementation, in the various design stages, during training or within the various layers of management," he added.

When looking behind the immediate events of this collision, it is hard to argue that the young Norwegian Officer of the Watch (OOW) on the *Norwegian Dream* was wholly to blame for this incident. Although he failed to appreciate at an early stage that a risk of collision was developing, failed to use his radars/ARPAs to best advantage, failed to call for the captain or staff captain as the situation unfolded and ultimately failed to avoid hitting the container ship, the OOW received Bell's sympathy. Others must take their share of responsibility, he said. Whether they will remains to be seen.

The events leading up to the collision were played through again using the full mission ship simulator at Warsash Maritime Centre near Southampton. The reconstruction was made possible by using information and shore radar plots provided by the Channel Navigation Information Service at Dover. It was possible to display both the radar information and the visual scene from the perspective of both the ships involved, together with the VHF discussion recorded at CNIS.

The *Norwegian Dream* sailed from Oslo on August 22 bound for Dover, the scheduled time of arrival at Dover pilot station being 0400 on August 24. Throughout the passage, the bridge was manned by one OOW and a lookout, with visits by the captain and staff captain from time to time. The captain last visited the bridge before the accident during the 1600 to 2000 watch on August 23, and the staff captain's final visit was at 2000. The captain left no specific written night orders, apart from his standing orders. The staff captain left verbal instructions with the then OOW about when he was to be called before boarding the pilot. When the watch was changed at midnight, the OOW who was handing over reminded his relief of the procedure for calling the captain and told him of the staff captain's instructions.

The relief OOW is described by the report as "well qualified for his post". He had full radar training and had spent two years on the *Norwegian Dream* before the incident, including about ten passages between Oslo and Dover. Before joining the ship, he had spent some time in the North Sea on other ships. He was accustomed to the practice of being the sole watchkeeping officer accompanied by a lookout.

When the watch was handed over, the ship had already joined the South-westbound lane of

Excerpt from Fairplay June 8, 2000

the Dover Strait Traffic Separation Scheme. The weather was fair, with visibility of about eight to ten miles and a Force 3, easterly wind. The OOW estimated that there was a 2-2.5 kt adverse tidal stream running, giving a speed over the ground of about 14.5 kt. At least five ships were forward of the *Norwegian Dream's* beam steaming in the same direction.

The Traffic Separation Scheme is intended to keep ships on potentially conflicting courses apart, but where there is a 'crossing gate' it focuses ships into a small area and creates a number of close quarters situations in rapid succession. In this case, ships were approaching the crossing area from at least three directions: the South-west-bound lane, the route from Zeebrugge and the River Schelde and traffic from the north, especially from the Thames.

From each direction, the ships had to keep to comparatively narrow lanes. This had the effect of giving overtaking ships less room to manoeuvre and of their having to pass comparatively close to any overtaken vessels.

Chronology of a collision

When the watch changed, the *Norwegian Dream* was overtaking an unidentified vessel that was joining the separation lane. Although never closer than two miles, this limited the actions available to the OOW as the situation later developed. Because of its position, this ship obscured the view of the 4,211 TEU *Ever Decent* when it appeared on radar at about 0030. Later, it inhibited an early large alteration of course to starboard by the *Norwegian Dream*. The BMA report observed that the separation scheme brought the two vessels closer than they would otherwise have been.

At the same time, another vessel was approaching the *Norwegian Dream's* port bow on a collision course. That ship had come from the South-east through the crossing gate, and was also funnelled into the small crossing zone by the separation scheme. It was initially passing clear, but the cruise ship altered course to come closer to the middle of the traffic lane and the collision course was resumed. Had the *Norwegian Dream* not altered course, the ship to starboard would have had difficulty joining the South-west-bound lane.

At 0036, the OOW of the *Norwegian Dream* was conscious that he would soon have to report to the CNIS at Dover, in accordance with company instructions. One ship was on collision course to port four miles away, another vessel was still forward of the beam at little more than two miles distant, the *Ever Decent* was on collision course at 5.5 miles to starboard while overtaking the 1,000 TEU container ship *MSC Rosa M*. It is possible that the *Ever Decent* was not visible from the bridge of the *Norwegian Dream* because the *MSC Rosa M* was in the line of sight.

At 0040, a crew member came to the bridge to have the garbage record book signed. The OOW unlocked the door, let him in and signed the book. The operation was estimated to have taken three minutes. It was a significant distraction at a time when the situation was becoming very busy.

Soon after, the ship on collision course to port altered course to pass clear of the *Norwegian Dream's* stern. While removing one obstacle, this manoeuvre meant the cruise ship was no longer able to alter course to port to run parallel with the *Ever Decent*, and would have brought it into close quarters situation with several ships to port.

The *Ever Decent* was approaching the South-west separation lane at about 67° instead of "on a heading as nearly as practicable at right angles to the general direction of the traffic flow", as stipulated in the Collision Regulations (Colregs Rule 10 (c)). The report states that the container ship was steaming at 20 kt "without apparent due regard for the potential dangers involved".

By 0048, the *Ever Decent* had moved clear of the *MSC Rosa M*, which altered course to pass around the stern of the larger container ship. The *Ever Decent* was still on collision course two miles away and closing. The ship being overtaken by the *Norwegian Dream* was no longer a problem unless the cruise ship had made a large alteration of course to starboard. At about this time, the *Ever Decent* contacted the OOW on the *Norwegian Dream* and asked the cruise ship to go to starboard and pass around the container ship's stern. Because of a mis-reading of the ARPA plot, and because the *Ever Decent* was the stand-on vessel, the OOW agreed to the request and, at 0051, altered course by 7° to starboard to increase the passing distance.

However, such was the urgency of the situation that the new course was never steadied. The OOW realised that prompt action was needed. The engine combinators (bridge controls of main propellers) were put to full astern and the helm hard to starboard. The *Ever Decent* appears to have maintained its course and speed throughout. If any action was taken, the report continued, it was too late to affect the outcome.

The *Norwegian Dream* collided with the *Ever Decent* approximately at right angles. The momentum of the two ships swung the cruise ship to port and, as they separated, the stem of the *Ever Decent* hit the starboard side of the cruise ship, causing further damage.

None of the passengers or crew of the *Norwegian Dream* was hurt in the collision. There were no reports of injury to the crew of the *Ever Decent*. The OOW was sent to inspect the damage on the forward mooring deck and, on his return to the bridge, reported feeling unwell. He was soon after tested for drugs and alcohol, but was clear.

Conclusions

The Bahamas Maritime Authority report reflects the collision as seen from the bridge of the *Norwegian Dream*, making use of impartial evidence from radar plots and a VHF transmission. It might have been published before it was fully ready, perhaps because of Douglas Bell's presentation. Evergreen, the operator of the *Ever Decent*, has told *Fairplay* that the report by the Panama authorities giving the container ship's view is to be published soon. It has been suggested that the delay has been caused by the need for lawyers to check any allegations contained within the text.

Yet serious points have been raised by the Bahamas report that need to be addressed. Among these is Bell's assertion that, although the flag state carried out inspections and issued certificates according to the necessary conventions, these conventions might not be adequate or appropriate. In addition, he states that the burden placed on the people on board might not be reasonable. "In this particular case, [the BMA has] decided that the present requirements for equipment and training do not seem to be adequate for a large ship of this type [and] there is a need to look more carefully at the management of information on the bridge of a modern cruise ship..."

Bell then turns to the Traffic Separation Scheme and urges that attention be drawn to the fact that such a concentration of ships in a small area is a real danger, despite collision regulations. Then he turns to the owner, Norwegian Cruise Lines.

"The owner must examine whether the manning of the bridge was sufficient," Bell said, "and if it was whether those on the bridge worked together in the most effective way." While other conclusions take the form of recommendations, this is the most damaging.

The report describes how the captain of the *Norwegian Dream* "followed the normal practice of the ship in leaving most of the routine navigation to the OOW."

It continues, "He knew that he had competent officers but he failed to realise that the area in which the accident occurred had the potential to produce a very heavy burden on the OOW, and the master should have considered the possibility that the watch should be increased. His standing orders and in particular his standing arrangements with the staff captain should have been such that everyone was aware that in areas of heavy traffic watches should have been doubled, in accordance with the company's instructions."

That statement reveals much. Despite the restrictions of the traffic separation scheme, the speed and angle of approach of the container ship and the burden of information on the bridge, the captain of the *Norwegian Dream* failed to observe company procedure that stated that watches must be doubled in areas of heavy traffic. It is far from helpful to blame the OOW for getting the ship into a position at which collision was inevitable, and it is damning for both the captain and the management of the company to have allowed the OOW to put so many lives at risk.

Among the Bahamas authority's recommendations are two points targeted directly at NCL:

"The master of the Norwegian Dream should draw up more explicit Standing Orders in accordance with the Company Procedure Manual to clarify when the OOW should call for assistance on the bridge. NCL should ensure that satisfactory master's orders are drawn up for all of their ships" and "NCL should take steps to enforce and monitor the guidelines contained in their Procedures Manual about when watches should be doubled".

Since the collision, Norwegian Cruise Lines has been acquired by Star Cruises, which will, no doubt, ensure that its own guidelines are monitored on the *Norwegian Dream*.

The Road Less Travelled

(The more things change the more they stay the same)

New York Times

December 24, 1999

SOVEREIGN ISLANDS/A SPECIAL REPORT

By *DOUGLAS FRANTZ*

For Cruise Ships' Workers, Much Toil, Little Protection

MIAMI - The kitchen on a cruise ship starts bustling for breakfast before 6 a.m., and some days the workers do not stop peeling, cooking and washing until after the midnight buffet. For labouring as long as 18 hours a day, seven days a week, most galley workers are paid \$400 to \$450 a month.

These are the migrant workers of the oceans, the thousands of dishwashers, assistant cooks, cabin cleaners and brass-rail polishers who toil unnoticed and unheard aboard luxury cruise ships. Most are from third-world countries, working for months without a day off, living in shared quarters with little or no access to the ship's public areas.

Long hours and subsistence wages are part of their contracts, as is the threat of being fired without notice or cause. Yet people from some of the world's poorest nations are so eager for work that some pay middlemen the equivalent of a month's wages to get these jobs, a fee that violates international law.

These are boom times for the cruise industry. Record numbers of passengers are packing bigger and grander ships, providing record profits for the dominant lines. The Carnival Corporation, with 45 ships the world's largest cruise company, is averaging \$2.8 million a day in profits this year, almost all tax-free because the company, which is based in Miami, is registered in Panama.

But the benefits have been slow to trickle down to the 70,000 or so workers who keep the fleets running and the passengers dining and dancing. Though living conditions have improved, pay for most workers has risen little, and some say their work has become more gruelling as ships have grown into floating cities bustling 24 hours a day. Even though 90 percent of the nearly six million passengers sailing out of United States ports in 1999 were American, and most lines have their headquarters in the United States, the companies escape American minimum wage requirements and other labour laws the same way they avoid corporate income tax and many criminal and environmental laws: they register their corporations and ships in countries like Liberia and Panama, where laws are lax and enforcement is weak.

Cruise industry representatives say that they provide good job opportunities and that wages are competitive with the rest of the maritime industry, and often much better than what workers could earn at home. "The most appropriate comparison to shipboard jobs would be jobs that these individuals would be able to obtain in their home countries - jobs that do not offer either the earning potential or opportunities for advancement and that do not include full room and board, medical care and transportation benefits that are provided to cruise line employees," the International Council of Cruise Lines, the industry trade group, said in a statement.

A LESSER HARDSHIP Some Seamen Escape Harder Life at Home.

Per capita income in the Philippines which provides thousands of workers to the cruise industry, is about \$1,000 a year. Over the course of their long hours, Filipino waiters and bartenders on a ship can earn 20 times that in tips, in addition to being provided room and board. Even the lowest-paid crew members earn about \$400 a month, a substantial sum in many countries. Carnival Cruise Line said that its starting salaries had increased for many jobs and that it recently created the industry's first retirement plan for shipboard employees. Carnival would not disclose its pay scale, but said that a good waiter, with tips, could earn as much as a counterpart on the mainland in the United States, and that cabin stewards earned more than maids in American hotels.

Critics in Congress and the American maritime industry describe the foreign-flagged cruise ships as operating "inside our waters and outside our laws," as several put it. They contend that the practice has led to increased pollution and problems enforcing some criminal laws. In addition, American cruise companies say that the economic advantages of foreign-flagged ships have stifled any effort to create a sizeable fleet in this country. Even those laws that do govern the foreign-flagged cruise industry are often ignored or bent. Despite a 70-hour week suggested by the International Labour Organization, which is affiliated with the United Nations, seafarers routinely work 80 to 90 hours a week without extra pay, many said in interviews. And despite laws requiring free medical care and adequate sick pay for injured or sick seafarers, crew members sometimes find themselves shipped home or living on a few dollars a day in sick wages while waiting for care.

Some unions have negotiated benefits below those available by law; some workers do not even realize they are covered by a labour agreement. After questions about work conditions were raised as this article was being prepared, the industry trade group announced that its 17 members had adopted voluntary guideline to govern the shipboard workplace. Among the guidelines are pledges that wages will be competitive with international pay scales, that crew members will be given opportunities for training and career development, and that employees have the right to voice complaints.

CASTES ADRIFT Among Seafarers a Rigid Hierarchy Seafarers are not indentured servants, and many develop satisfying careers on ships. Some outside advocates applauded the industry for improving working and living conditions on board and said complaints of exploitation had declined in recent years. Is it an ideal lifestyle? No," said the Rev Peter Larom, executive director of the Seamen's Church Institute, an advocacy group in New York. Is there a sharp improvement curve? I would say yes. And for seafarers, these are valued jobs." But just as passenger accommodations range from luxury staterooms with balconies to cramped interior cabins, life for the 1,000 or more crew members aboard a cruise ship is rigidly stratified.

At the top are the captain and other officers, who are usually European and earn \$40,000 to \$60,000 a year or more. They have staterooms and are encouraged to socialize with

Excerpt from New York Times December 24, 1999

passengers. Next come the skilled seamen and various supervisors, who earn \$1,500 to \$2,000 a month, usually share a cabin and have little contact with passengers unless their jobs require it. Some workers, like waiters and cabin stewards, are paid as little as \$50 a month by the lines, but can earn \$2,000 a month or more through tips. At the bottom are the unskilled workers who clean the kitchens and cabins, wash the laundry, polish the brass and mop the engine rooms. They routinely sleep four to a cabin and are restricted to crew quarters below deck. They are told to speak to passengers only if spoken to first. Most send their earnings home.' some, to help their families, work a second shipboard job.

These workers sign contracts that keep them at sea 4 to 10 months. When the contract is up, they get a few weeks off without pay, insurance or a guaranteed job when they return. In the best of circumstances, it can be a hard life. The model wage and hour scale established by the International Labor Organization, suggests a minimum wage of \$435 a month for low-level seamen who work 10 hours a day, seven days a week. More often, workers and their lawyers say, the hours are longer. And those at the bottom of the heap are most likely to have paid a fee to get their job, to have paid their own air fare, to know the least about their rights and to have little chance for advancement. "I had to pay \$400 for my job," said Del Ray Miller, who started out earning \$415 a month cleaning kitchens on Norwegian Cruise Line ships 80 hours a week, and was making \$500 a month three years later cleaning vegetables. "I bought it from a cruise agent in Jamaica," Mr. Miller said. "I had to borrow the money for my job and air fare. I did this to help my family, I have three kids and my wife plus my mother." Mr. Miller, who has been unable to work for more than a year because of an injury, said: "I thought my pay would rise and I would be able to pay back the loan. It did not happen." Another crew member, Julio Castillo, was given a receipt, marked "job placement fee," for \$500 cash for a job on a Norwegian Cruise Line ship. The stories and the sums were similar in interviews with many workers for other cruise lines.

International conventions, as well as the laws of the United States and other countries, expressly prohibit charging seafarers fees for jobs. The cruise lines say that they pay outside agencies to find employees but that they forbid charging workers for anything except administrative fees. Carnival, the largest line, said that it would terminate any agency that charged seafarers for a job. Employees at several agencies in Miami would not discuss recruiting practices, but the owner of Velkin Personnel Services, Ludmila Velasquez, acknowledged charging placement fees to seafarers. She said she did it because cruise lines had told her they did not have the money to pay her. "I am not a non-profit," Mrs. Velasquez said, adding that she had no idea such fees were illegal. She said she had recently stopped recruiting for the cruise industry'.

A RULE OF SILENCE Many Workers Fear Challenging Abuses.

The same needs that drive people to pay for these jobs help keep workers silent about long hours that violate their contracts and about difficult conditions, according to advocates and lawyers for seafarers. Often those who do object find themselves unable to get work at the end of their contract. Several people said recruiting agencies blacklisted workers who complain. Four Filipino waiters filed suit in state court here three years ago, claiming that they had been blacklisted after objecting to being forced to return part of their tips to their cruise line and hiring a lawyer, Luis A. Perez, to represent them. Lawyers for Majesty Cruise Line, the company that employed the waiters, denied retaliating and said the lawsuit was the result of a misunderstanding. The case is pending.

Douglas B. Stevenson, director of the Center for Seafarers' Rights, which is affiliated with the
Excerpt from New York Times December 24, 1999

Seamen's Church Institute, said there was ample evidence of blacklists. "There are so many people ready, willing and able to take these jobs that you are not going to find too many people willing to complain, because they are afraid of losing their job and being blacklisted," Mr. Stevenson said.

In October, at a sentencing hearing in Miami for Royal Caribbean Cruises on pollution-law violations, the Justice Department said the disparity in work, pay and opportunities for advancement on ships made employees less likely to call attention to crimes like the cruise line's years-long dumping of contaminated waste water. "The work practices hardly empower the lowest levels to challenge pollution practices or provide such employees a direct route of communication with senior ship or shore-side managers, as good corporate compliance practices would dictate," prosecutors said in court papers.

There is other evidence that workers fear complaining. Santos Alfredo Henriquez, a kitchen worker aboard a Carnival ship, fell down a flight of stairs while carrying a load of plates. Mr. Henriquez, who is from El Salvador, hurt his back, but did not report his injury until the pain became nearly intolerable, according to a suit he filed against Carnival in Miami-Dade County Circuit Court "Because of Carnival's inhumane policy of requiring the poor seamen to pay for the plates that they break, the plaintiff was afraid to report his accident, and also thought that he would be fired because Carnival is well known to send men who are injured home and not to rehire them," the complaint said. Carnival's lawyers said that Mr. Henriquez had received proper medical care and that the company did not retaliate against injured seamen. A spokesman said the line did not charge employees for breaking dishes. The case was settled last March when Carnival paid Mr. Henriquez \$100,000.

Maritime laws have protected seamen for centuries because they are so much at the mercy of the owners and officers of their ships. One of the earliest written codes, the Rules of Oleron, dating from 13th century Europe, required ship owners to provide free medical care for sick or injured seamen. Seven centuries later, seamen still sometimes run into trouble collecting their benefits. Prem Piakashram Suvaram worked 15 years in the engine rooms of cruise ships before he broke his ankle in a fall last year. Mr. Sukram said his supervisor had told him the injury was not serious and insisted that he return to work. Eventually, he said, the ship's doctor sent him home to Guyana for medical care. Mr. Sukram said he had been reluctant to go because he had seen other injured workers sent home and never return to work, and also because he was concerned about his medical bills. "They said they would pay," Mr. Sukram, a 37-year-old father of three, said. "I went home for six months and I sent the bill to the company. There was no reply. I called and they hung up the phone." Frustrated and in debt, Mr. Sukram said, he borrowed money and flew to Miami, where he stayed in the basement of a rundown hotel for several weeks waiting for his money. Eventually, he filed suit in state court in Miami against a management agency that operated the ship on which he was injured. The agency, in court papers, denied any wrongdoing, and its lawyer, Domingo Rodriguez, declined to comment. In early December, Mr. Sukram received money for his medical bills and back wages and returned home. Mr. Miller, the injured kitchen worker from Jamaica, filed suit in state court here, claiming he had not received proper medical care and full sick pay from Norwegian Cruise Line. He was injured in 1998 and has languished since January, in a modest Miami motel room, where several printed prayers are tacked to the headboard of his bed. "Even though the money was small, I sent my money home because I have to take care of my family," Mr. Miller said. "But since I was injured there is no pay to send home." Norwegian Cruise Line paid for Mr. Miller to see several doctors and is paying for his motel room. In addition, he receives money for food and \$12 a day in sick pay. The company's lawyer said in responding

to the suit that doctors had determined that Mr. Miller was fit to return to duty and therefore should no longer be entitled to sick pay and maintenance.

A QUESTION OF JURISDICTION Who Protects Labourers at Sea?

Virtually the only American law that does apply to crew members aboard foreign-flagged ships is the maritime law provision for sick pay to injured and ill seafarers. American courts have generally agreed that the law applies to ship owners with substantial business interests in the United States, a definition that covers the major cruise lines. The maritime law says seafarers are entitled to sick pay equal to full pay while they were working, including overtime and tips, until the end of their contract. But cruise companies have fought aspects of the law, sometimes calculating sick pay on base salary only and cutting off sick pay at the end of a voyage.

The differences can be significant, as Christina Gheorghita discovered. Ms. Gheorghita, who is from Romania, was a cabin stewardess aboard Royal Caribbean's *Enchantment of the Seas* in early 1998 when she got sick and had to leave the ship. She was earning about \$2,500 a month in tips, or roughly \$80 a day, but her sick pay was \$12.50 a day. When she questioned the discrepancy, she discovered that \$12.50 was set by a collective bargaining agreement with the Norwegian Seaman's Union. The agreement also permitted Royal Caribbean to fire Ms. Gheorghita and stop her sick pay at the end of the seven-day voyage, even though she had a six-month contract.

Instead of being protected, Ms. Gheorghita discovered that a union to which she did not know she belonged had bargained away some of her rights under American maritime law, according to a lawsuit she filed in federal court in Miami against Royal Caribbean. The non-Norwegian workers, who make up the majority covered by the agreement, did not have union cards, never attended union meetings or voted for officers, and did not approve the contract terms, according to the complaint. It also said most workers, like Ms. Gheorghita, did not even know they were in a union, in part because Royal Caribbean paid the \$300,000 a year in dues directly to the union, rather than deduct them from paycheques.

Cynthia Rose Bernard, a lawyer for Royal Caribbean, said in court papers that the company had negotiated in good faith with the union. The terms were incorporated in Ms. Gheorghita's contract. Ms. Bernard said, and a company official testified that Royal Caribbean is registered in Liberia, and its ships fly Liberian flags and Norwegian workers were given copies of the union agreement when they were hired. When asked in a deposition last year if he knew what benefits were provided by American maritime law, Johan N. Oyen, the director for the Norwegian union in Miami, insisted that American law did not apply. "Norway is an independent country with its own constitution," Mr. Oyen said, "and we couldn't give a damn about American law under that respect and, you know, just as the United States doesn't give a damn about Norwegian law." In an interview, Mr. Oyen defended agreements with Royal Caribbean, Norwegian Cruise Line and other companies, saying they represented the best wages and conditions available in the competitive market and met standards set by the International Labor Organization. The Gheorghita case was tried before Judge William M. Hoeweler and a decision is expected soon. Had the cruise industry's Washington lobbyists succeeded three years ago, the Gheorghita case and others might never have been brought, at least in the United States. The House approved legislation drafted by the industry, and sponsored by Rep. Don Young, Republican of Alaska, to prohibit foreign seafarers from filing suit in American courts in most instances. The cruise lines said most suits should be handled in the home countries of the seamen.

The bill was locked in the Senate and has not been resurrected. Since then, cruise lines have had mixed success using other means to shift cases to foreign courts, where awards are sometimes smaller and the laws often prohibit lawyers from taking cases on a contingency basis, making it harder for aggrieved seafarers to find representation. Many companies put clauses in employment contracts requiring that suits be filed in the seaman's home country or the flag country of the ship. Even a distinctly American icon, the Walt Disney Company, has a clause designating that suits be filed in the Bahamas, where its ships are flagged.

Larry W. Kaye, a lawyer who represents cruise companies, said that nothing was unfair about requiring a seafarer to bring a case in his or her country and that legal remedies available elsewhere were often equivalent to those here or better. "It is a mistaken premise to assume that we are the only nation with decent laws and a decent court system," Mr. Kaye said. "In certain third-world countries where the system doesn't function, they should have access to our courts. In other cases, they should litigate at home." At a hearing in Miami-Dade County' Circuit Court in October, Celebrity Cruises tried to persuade a judge that an injured Filipino's suit should be transferred to the Philippines because that country has a system to handle the claims. Celebrity is registered in Liberia, not the United States, but like many other cruise lines has an extensive operation here. In rejecting the argument Judge Paul Siegel said Celebrity was simply trying to escape the possibility of paying a substantial sum to the injured man, Noel Hitosis.