

## OPENING PLENARY SESSION

### MINUTES

#### *Opening of Meeting*

The meeting opened at 8:15 p.m. on Sunday, August 7, 1994 at the Prince Edward Hotel in Charlottetown, Prince Edward Island with Peter Lown, Q.C. as Chair and Claudette N. Racette as Secretary.

#### *Address of Welcome*

The President extended a warm welcome to all those delegates in attendance. Raymond Moore, on behalf of the Minister of the Department of Provincial Affairs and Attorney General, welcomed all delegates to the Province.

#### *Introduction of the Executive Committee*

The members of the Executive Committee were introduced: Peter Lown, Q.C. President, Howard Morton, Q.C. Past President, John Gregory, Chair, Uniform Law Section, Michael Allen, Q.C., Chair, Criminal Law Section, and Gordon Johnson, Chair, Drafting Section, Claudette Racette, Executive Secretary.

#### *Introduction of the Delegates from the NCCUSL*

A warm welcome was extended to Mr. Dwight Hamilton, the Immediate Past President of the National Conference of Commissioners on Uniform State Laws and Mrs. Hamilton and to Mr. Jeremiah Marsh, Chair of the Liaison Committee between the NCCUSL and the Uniform Law Conference, and Mrs. Marsh.

#### *Report on the NCCUSL Conference*

The 1994 NCCUSL conference was, in the opinion of ULC's President, the most successful meeting the Conference has had. Seven completed and final uniform acts were achieved. The NCCUSL guests were congratulated on the success of their 103rd meeting.

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### *Welcome to Other Representatives*

A warm welcome was also extended to a number of other visitors who were participating in this year's Conference in an official capacity: They included: Two representatives from the Canadian Provincial Court Judges' Association, The Hon. Judge Owen Kennedy from Newfoundland and The Hon. Judge E. Dennis Schmidt from British Columbia; Madam Justice Georgina Jackson representing the Canadian Judges' Conference; and Bonita Thompson, representing the Legislation and Law Reform National Section of the Canadian Bar Association.

### *Introduction of the Delegates to the Conference*

The President asked the senior delegate from each jurisdiction to introduce the members of his/her delegation.

He thanked the delegates for their efforts in preparing for the meeting and for the time and study they would be involved in throughout the week.

### *Approval of Auditor's Report*

The President presented the Auditor's Report to March 31, 1994 for approval. (The Report is included as Appendix A, on page 114.) A few items were highlighted. The \$15,000 1993 Conference fund was a one time special fund the Conference held on behalf of the Organizing Committee. These funds were secured by the Organizing Committee well in advance of the Annual Meeting.

Although there were some reductions in the general revenues, a fact of life that we must all cope with, there is additional income from new line items. Revenues from the sale of publications, a venture that was approved by the Executive two years ago. There is also revenue from reimbursement of postage for the delivery of the sold copies.

Expenses attributed to the Executive Committee were reduced by more than 50% last year. This was achieved by not having any in-person meetings or by having an in-person meeting only where the cost of attending such a meeting could be covered by some other source. This may not be possible this year. This will be addressed during the review of the proposed 1994/95 budget. The Executive has been, and continues

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to be attentive to the need to have meetings by the most expeditious and economic manner possible. As a result of last year's decision on auditing, the cost of professional fees was also reduced by a significant amount.

### *Research fund*

The President reviewed the policies and procedures established for the research fund two years ago:

- That the potential draws on the research fund be approved by the Executive after notification by the Chairpersons of the Sections to the Vice President, no later than October of the financial year. The Executive then considers what potential projects it wishes to fund and those are approved by the Executive at its November meeting.
- That there be an annual cap of \$5,000 attributed to the research costs of any particular project. That annual maximum, if expended, would then be reviewed in the following year to determine if the project is to be continued. In effect, there are no open ended research contracts for the research fund. The Conference tends to look at a maximum of a two year period over which the research fund carries some of the research.

This year, the equity of the research fund was retained at the same level as it was the previous year.

There being no questions from the floor, a motion was presented by John Gregory, Seconded by Michael Allen, that the audited financial statements for the year ended March 31, 1994 be approved. Motion carried.

### *Appointment of Auditors for 1994/95*

Delegates were advised that the Conference has received a letter from Mr. Maurice Vance, indicating his willingness to continue to serve as Auditor for the next financial year.

Moved by Peter Pagano, seconded by Michael Allen, that Mr. Maurice Vance be appointed auditor for the Conference for the fiscal period 1994/95. Motion carried.

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### *Approval of the Budget for the 1994-95 Fiscal Period*

The President presented the proposed 1994-95 budget for approval. He stated that clearly, one of the objectives that the Executive Committee had set for itself last year was for the Conference to live within its means, recognizing some shrinkage in revenues. This budget continues that approach.

In past deliberations, the delegates expressed some concern about the difficulty of operating the Conference unless it has a commitment from all provinces and territories to meet the assessment. The Conference recognized some of the realities of budgeting difficulties which some provinces have. Through joint efforts, we are now able to show income items from the Province of Manitoba as well as New Brunswick which also provides services by way of translation and other assistance for the COMMUNIQUÉ.

All of the Executive Committee meetings and the Executive Committee/Jurisdictional Representatives meetings last year were by conference calls. The Executive Committee budget has been increased this year because we anticipate that we cannot keep on going year after year without an in-face meeting at some stage. This is also the budget item that will be used to finance the attendance of visiting experts at an Executive Committee meeting if necessary. This was done on one occasion where at a minimum cost to the Conference, two experts from the NCCUSL met with the Consultative Group on Investment Securities.

The President was pleased to report that on the revenue side, the amount in the proposed budget is all money in hand. As of July 30, all of the money had been received, except for the Quebec assessment which has been authorized and is on its way. As of now we can say that all assessments are accounted for. We have not been able to say that for quite a number of years.

If the budget estimates are maintained, the Conference will be able to effect a small return to the research fund at year end.

The budget for the 1994-95 fiscal period was approved as submitted. Motion by John McCamus, seconded by Raymond Moore. Motion carried.

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### *Banking Resolution*

Upon a motion by Syd Horton, seconded by John Hogg, the following banking resolution was carried:

"That the signing officers on the Conference's bank accounts be any two members of the Executive Committee or the Executive Director and one member of the Executive."

### *Appointment of Committees*

#### The Resolutions Committee

Daniel Grégoire and Chris Curran shall act as Co-Chairs of the Nominating Committee. They will be adding members to the Committee during the course of the week. Their report will be presented at the Closing Plenary Session.

#### Nominating Committee for the Conference

The most immediate Past President of the Conference, Mr. Howard Morton, Q.C. shall act as Chairperson of the Nominating Committee. He will, in consultation with the President, select four other members of the Conference to constitute the Committee. Regional representation will be taken into account in the selection of the four members. The Committee will submit its report at the Closing Plenary Session.

### *Outline of the Business of the Week*

The President called on Michael Allen, Chair of the Criminal Law Section and John Gregory, Chair of the Uniform Law Section for a brief summary of what will be dealt with by the two Sections during the week.

#### *Criminal Law Section - (Michael Allen, Chair)*

As usual, the Criminal Law Section Agenda contains a fairly significant number of items, the usual number of Resolutions dealing with amendments to the criminal law, the Criminal Code of Canada, and some relating to the Young Offenders Act. The miscellaneous criminal law amendments prove that delegates have a reason for

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coming to the Uniform Law Conference because these miscellaneous criminal law amendments have a lot to do with the resolutions passed by the Section and that are before the House of Commons in Bill C-42. There are also the sentencing provisions. The Federal Government is attempting to pass a Sentencing Code. Bill C-37 which are some amendments to the Young Offenders Act is coming in. The Section will be discussing some fairly significant pieces of legislation that have at least had first reading in the House this year. It is also going to discuss an AIDS specific offence - whether we need a specific offense to deal with the problem that AIDS creates, mandatory blood testing in sexual assault cases and DNA testing. This shows that the Section is right up-to-date with many of the issues that are being discussed in the United States and anywhere else.

### *Uniform Law Section - (John Gregory, Chair)*

The Section has a full Agenda again this year. It had an energetic afternoon dealing with the Civil Jurisdiction of the Courts. It will be back to that item with the aim of approving a uniform statute at the end of our deliberations on Wednesday. There are also a couple of commercial topics: One is the Uniform Rules for the Disclosure of Cost of Consumer Credit, a fairly technical topic on which we have been doing a great deal of consulting of public interests, including a number of meetings. We will have a report on the outcome of those discussions. That is one project where the work of the Uniform Law Conference was recognized by Federal/Provincial/Territorial negotiators on internal trade in Canada. Basically, they have made it part of the internal trade agreement that they will adopt uniform legislation based on what we come up with. We have advance recognition before we have our product. That the product has a sure market is an innovation and a useful one.

Commercial law is on the Agenda for Monday afternoon in the form of work on Uniform Commercial Liens. Madam Justice Jackson is continuing her work on that topic and continuing the work that was also done in Alberta through the Alberta Law Reform Institute.

There will be a joint session with the Criminal Law Section on Tuesday on the Nature of the Rules for Electronics Evidence - how do we get records into the civil and criminal courts, and on the Principles for Jury Selection.

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The Section will also be moving on to a second introductory presentation on the Transfer of Investment Securities. This is also a topic on which we have had consultation with a number of the main players in industry and in government departments that are involved in that area. There was a good deal of productive discussion and one in which the contribution of the National Conference in the United States has been notable both through the ongoing consultation between our Project Director and the people involved in the American work on that subject and with a couple of the U.S. experts attending a meeting which made an enormous difference to the receptivity of the private sector in Canada to that project.

We will also be dealing with tidying up a couple of other items. We will be studying the prospect of adopting a uniform act on the Law of Defamation and creating a statutory tort protecting Privacy. These matters were adopted in principle some time ago and it is a matter of having the Act to show for the adoption of the principles. We will be receiving a report from the Department of Justice as usual on Private International Law matters. Last year, of course, we adopted a Uniform Intercountry Adoption Act and there are a couple of other international conventions on the horizon that will probably show up on our agenda next year or the year after in that area. This is an ongoing mandate of the Uniform Law Section.

### *Comments from the Organizing Committee - (Raymond Moore, Chair)*

Raymond Moore, expressed the pleasure of the Organizing Committee at having the delegates in Prince Edward Island for the duration of the Conference. He reviewed the social program for the week and highlighted some of the free events that were available on the Island at this time of year. Delegates were encouraged to take advantage of as many of these events as possible as some were truly exceptional.

### *The President's Address - (Peter J.M. Lown, Q.C.)*

The President tabled his address. (The address is included as Appendix B and appears on page 130). He delivered a brief summary, in both official languages. He commented that his address was a report card of the objectives that the Executive had set for itself at the beginning of the year and whether or not these objectives had been met - in good measure, they have. He encouraged delegates to read the report. He drew their attention to the conclusion of the report where he has sets out a new challenge for the Conference:

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"We have concentrated in getting our house in order and I characterized the challenges as internal financial and administrative, and external - in terms of public relations. I can summarize it by saying, our house is clean, runs well and is open for visitors. But the major challenge we face is that we have to justify our existence in the current climate.

In the past "they do good work" would have been sufficient for our continuance and our funding. Now we face questions like "can we do without it?" "Do we have to have an Annual Meeting?" "Can someone else do the job?" We can start by showing that we operate efficiently and produce a needed and relevant product. When you look at the agendas that the two Chairpersons have for this week's meetings, there is clear evidence of valuable and relevant products. I am not afraid that the next challenge we will face is consumption of our products. We have to start to look at implementation. I think that we have something to say and something to show here. It will take an effort to produce a balanced strategy over the next several years, but I think that that is a product that is clearly achievable."

Delegates were encouraged to provide comments on the report over the course of the Annual Meeting. If there are items that they feel should be raised at the Closing Plenary Session, these will be added to the Agenda.

### *Acknowledgement*

Commenting that we were missing the formidable presence and "joie de vivre" of our dear colleague, Anne Marie Trahan, Richard Mosley was extremely pleased to inform delegates that Anne-Marie had been appointed to the Superior Court of Quebec by the Minister of Justice. He believes that this in itself is a recognition in part of the quality of the representation that attends the Conference. He then asked the President whether it would be appropriate for the Conference, through its President, to express its congratulations to Anne-Marie. The President undertook to extend congratulations on behalf of the Conference.

There being no further business, the meeting adjourned at 9:45 p.m.