

CLOSING PLENARY SESSION

August 15, 1996

MINUTES

Opening of Meeting

The meeting opened at 10:30 a.m. on Thursday, August 15, 1996 with John Gregory as Chair and Claudette N. Racette as Secretary.

Report from the Criminal Section

The Chairman, David Winkler, reported on the work of the Section. The Minutes of the Criminal Section are set out on page 80 in English and 102 in French.

Report from the Civil Section

The Chairman, Douglas Moen, reported on the work of the Section. The Minutes of the Civil Section are set out on page 41 in English and 57 in French. Joint session minutes are at page 74 in English and 77 in French.

Report from the Resolutions Committee

The Committee, Donald SoroChan, Q.C., Yvan Roy and Neil Ferguson, presented the following resolutions:

RESOLVED that the Conference express its appreciation by way of a letter from the Executive Director to:

The Department of Justice Canada for hosting the 78th Meeting of the Conference during which we enjoyed fruitful and stimulating intellectual discussions and lively camaraderie and conviviality.

The Organizing Committee: Sheila Arthurs, Sandy Beeman, Mark Berlin, Adair Crosby, Lionel Levert, Francine Dumas, David Dunlop and Claudette Racette, for presenting such a fine Conference.

Justice Canada for its financial contributions.

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The Ottawa Tourist and Convention Authority and the National Capital Commission, for providing very useful guides and tourist information.

Lucette Lalonde and Diane Penney, who assumed the responsibility of the Secretariat along with Claudette Racette, our Executive Director.

Express special thanks to Francine Dumas, Claudette Racette and David Dunlop for the extraordinary contributions to the success of the Conference.

The various drafting units in the governments of Canada, Quebec, Saskatchewan, Manitoba and New Brunswick (and John Gregory) for the translation of various documents used by the Conference.

Additional thanks to David Dunlop for organizing the baseball game and barbecue.

All those who prepared papers for the consideration of delegates or attended to assist in the discussion of the sections.

John Gregory our outgoing President for all his efforts on behalf of the Conference, both on substantive matters and in the promotion of the Conference and its products in the jurisdictions.

Nous voulons aussi souligner les excellentes contributions des présidents de nos sections du droit pénal et droit civil qui ont réussi à nous maintenir au travail et qui nous ont permis d'avoir des échanges fructueux, David Winkler et Doug Moen.

Nous voulons également adresser nos remerciements à nos collègues de la Conférence nationale américaine, le président Mr. Bion Gregory et son épouse, Mme Patty Gregory ainsi que le président de comité de liaison Mr. Jeremiah Marsh et son épouse, Mme Marietta Marsh.

Nous souhaitons tout particulièrement remercier les interprètes, Dorothy Charbonneau, Betty Wietty, Monique Carrière, Brigitte Kransharr, Jean-Pierre Lessard et Marie-Claire Perrault.

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Enfin, par la présente résolution, nous tenons à témoigner une grande appréciation pour le travail effectué au cours de l'année par Madame Claudette Racette, notre Directrice administrative qui participait pour la quatrième fois à notre session annuelle.

MOVED by Donald Soroohan, seconded by Neil Ferguson, that the report of the Resolutions Committee be adopted. Motion carried.

Approval of Resolutions

The President requested approval of the Resolutions that were made at the joint session with respect to the following projects:

Electronic Evidence

1. THAT a draft Uniform Electronic Evidence Act and commentaries be prepared for consideration of the 1997 Conference.
2. THAT the report appear in the Proceedings.

Financial Exploitation of Crime

1. That report be tabled.
2. That a request be made to the Deputy Attorneys General for further instructions respecting:
 - (a) the priority to be given to this project; and
 - (b) the objectives of the legislation.

The Resolutions were approved.

Mr. Cotter undertook to raise this issue with the Deputy Attorneys General at the earliest opportunity.

Report from the Nominating Committee

Peter Lown presented the report on behalf of the Nominating Committee. He commented that it was with a bit of sadness that he was presenting the report

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because this marked the last official act of his six years as a member of the Executive Committee. In his opinion, any sadness he might have was more than compensated by the confidence he had in the slate of people whom he was about to list. He was very pleased to say that the Nominating Committee felt the Conference would be in good hands with an Executive consisting of:

President - Richard Mosley, Q.C.

Vice-President - Douglas Moen, Q.C.

Past President - John Gregory

Chair of the Criminal Section - Earl Fruchtman

Chair of the Civil Section - Jeffrey Schnoor, Q.C.

Chair of the Drafting Section - Lionel Levert, Q.C.

MOVED by Peter Lown, seconded by Graham Walker that the report of the Nominating Committee be adopted. Motion carried.

Composition of Delegations and Openness of the Conference

During the Opening Plenary Session, the Criminal and Civil Sections were asked to consider this issue and to report back during the Closing Plenary Session.

Douglas Moen presented the following report on behalf of the Civil Section: The Civil Section basically took the position that the deliberations of the Section were private deliberations. While there is freedom to give the Steering Committee of the Section the ability to invite guests to discuss matters with the Section, generally speaking, the Section's deliberations should be private.

That being said, there was a strong interest in ensuring that the composition of delegations is broadly based, that the Section has the benefit of hearing from a wide variety of people prior to its deliberations, and that it ensures that the project leaders are bringing information back to the Conference. Following the Conference, there must be an effort to make the products available and there must be a good consultation process.

David Winkler presented the following report on behalf of the Criminal Section: The discussion within the Criminal Section was quite similar with respect to the composition of the delegations. There was a consensus that the

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jurisdictions are entitled to appoint who they wish to participate as delegations from the jurisdictions. That may include people who have connections with other organizations. But there seemed to be a common theme during the course of the discussion that people attending ought to be open minded. It is preferable that they not be given specific direction from their organization as to how to vote on particular items and that they be open to having their mind changed during the course of the discussions. In appointing members of their delegations, jurisdictions should take that into account and make their appointments accordingly. There seemed to be relatively little enthusiasm, although he could not say that there was unanimity, for having additional organizations other than those who already participate, that is to say the jurisdictional groups, participate in the meeting.

With respect to the openness, particularly communication of what goes on within the Conference, there was complete consensus that the presence of the press during the deliberations would be quite inappropriate. There is recognition that in order to raise the profile of the organization, an enhanced communications process is something the Conference should be looking towards. Options include a COMMUNIQUÉ at the end of the Conference and encouraging the heads of the two Sections to act as conduits or spokespersons for the Conference or for those particular Sections. There would be an inhibiting effect if people, in speaking to issues, were concerned about how this would be reported back in due course. People might be encouraged to toe the party line if that were the case. It was his understanding that this item will be given further consideration by next year's Executive Committee in determining more specifically how a communications strategy can be put into place in the future.

The President thanked the Section Chairs for their report. He commented that one of the elements of a communications strategy would have to be how much information ought to be communicated before the annual Conference. He suggested that the incoming Executive should, as part of the communications strategy mentioned by the Chair of the Criminal Section, develop a policy on this subject and devise a way of stating this policy to the jurisdictions either by letter from the Executive Committee to the Deputy Ministers or through the Jurisdictional Representatives. As a result, when a request is received, they will know how to respond to it, or at least, they will have some idea of what the Conference's position on those requests is.

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With respect to the composition of the delegations he acknowledged the fact that this is a responsibility of the jurisdictions. However he stated that it is perfectly respectable and responsible for the delegates and the Conference to express their views on what the effect could be of changing the structure of the delegations.

A representative of the Canadian Bar Association commented that the CBA representatives had discussed this subject earlier and they concluded that the way they function is that they are not attending the meetings as experts on any of the individual topics. They tend to circulate the papers they receive to other members of the Bar in their jurisdictions to get their feedback and they do not put any limitations on that although they might in appropriate cases, exercise a little bit more discretion than in others. They wanted to make sure that this was an appropriate way for them to proceed.

According to the President, this was a good question. He believes that in the normal course, this would be right. It may be that when the Steering Committee wants to put some kind of limitation on the distribution, whether by simply saying "private - not for publication" they could pass it on with the understanding that the qualifier is passed on. At present, the Conference is not trying to invent a security system for its documents. It will go on the good faith of the people who receive them. There is a difference obviously between giving the documents to the CBA representatives who give them to the Chair of a section because it is that person's area of expertise, and giving them to the reporter who calls. The new Executive Committee will deal with this issue. Certainly, the move is to greater consultation on the civil side and this issue is very much a part of that process.

1997 Conference

Sydney Horton reported that Yukon is willing to host the 1997 Conference and they are looking forward to welcoming delegates and their guests to Yukon. The date will have to be determined by the Conference. It is very likely that the two Sections will not be able to meet in the same building. The buildings will be within a four or five minute walk from each other. If this is the case, runners will be available to move documents and messages between the two locations and the Secretariat.

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The President thanked Mr. Horton for his report. The Executive Committee, in consultation with Mr. Horton and his colleagues in Yukon, will confirm a date. [Date later fixed at August 17 - 21, 1997. - Ed.]

Other Business

This was the outgoing President's 10th ULC Conference. In his opinion this had been the best. This was not a tribute to him personally, he said, but to the people who have run the Sections, Doug Moen in collaboration with Susan Amrud for the Civil Section and David Winkler and Fred Bobiasz for the Criminal Section. He congratulated them, stating that it is a lot easier for people who have passed into the marketing phase of the Conference to market and promote, when they have as solid a foundation as the two Sections have provided to them this year.

He echoed the resolution that the Resolutions Committee made thanking Claudette Racette for her talents as well. He has been in close contact with Ms. Racette over the course of the year. She has been extremely valuable. Her professionalism has made his job very easy to do in many ways with respect to administration.

He welcomed the new Executive Committee. As his final function, he commented on the Peter Lown's six years as a member of Executive Committee. When Peter Lown took over as the Chair of the Uniform Law Section, the Section was at a real turning point. This was just after the Statement of Renewal. A number of projects had finished. There were a number of questions as to where the Conference was going, and where the Section was going. By his leadership and by his constructive plugging in of products of his own organization, the Alberta Law Reform Institute, Peter made a huge contribution to the morale and to the work of the Section. He then spent a year as Vice President and two years as President. During this period he faced a number of challenges including the withdrawal of the Intergovernmental Conference Secretariat. He handled them extremely well. He also helped institutionalize the friendly relations with the National Conference in the United States. The formalizing of this relationship has been very helpful. All of the delegates, and certainly he personally, in his role as successor to Peter Lown both as Chair of the Civil Section and as President, owe Peter Lown a huge debt. The delegates applauded in agreement.

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He then passed the meeting to the new President, Richard Mosley, Q.C. Mr. Mosley expressed his appreciation for having been nominated and for the approval of his nomination as President. He echoed John Gregory's comments about Peter Lown's contributions. Peter very much played the role of Counsellor and offered very wise advice over the course of the past year as to how these proceedings should be conducted.

Mr Mosley also commented that John Gregory had given a great deal of thought to how this Conference should function, and to the continued success of the Conference. John had put his heart and soul in that role over the past year and he wanted to express the delegates' personal appreciation to him for his fine work over the course of the year.

Doug Moen thanked the delegates for the honour of being able to serve as Vice President. He stated that he had the great pleasure of working with John Gregory, Peter Lown, Richard Mosley and David Winkler on the Executive Committee. John Gregory had during the course of the year represented faithfully both the Civil and Criminal Sections to governments across Canada. The Conference needed to have its President out front and to have the members of the Executive and other people on the Conference marketing the Conference. The Conference has been well served by Peter and John in their efforts over the last number of years.

Adjournment

There being no further business, the new President stated that he looked forward to seeing the delegates in Whitehorse in 1997.

Upon a motion by Richard Mosley, seconded by John Gregory, the meeting was adjourned.