

August 21, 1997 Whitehorse YT

CLOSING PLENARY SESSION MINUTES

Opening of Meeting

The meeting opened at 10:30 a.m. on Thursday, August 21, 1997 with Richard Mosley, Q.C. as Chair and Claudette N. Racette as Secretary.

Report from the Criminal Section

The Chair, Earl Fruchtman, reported that the Criminal Section dealt with 57 Resolutions. Ten Resolutions were withdrawn, 18 were defeated, and 39 were adopted either as amended or presented.

The Section also dealt with a report from the Working Group on **Representation of Accused Persons by Non-lawyer Agents in the Criminal Courts**. There was a discussion of a paper presented by Bruce Durno. In the end, the Section gave approval in principle of the contents of the Working Group's paper and recommended that the Paper be referred to the appropriate authorities, which included the Federal government, provincial governments and law societies.

The Working Group on **Rules of Evidence Concerning Spousal Competence** was unable to complete the work this year. It will be reporting on its recommendations at next year's Conference.

Out of the Resolutions, a number of working groups emerged from the Section. One will be looking at developing **Procedural Rules to Govern the Conduct of Charter Applications**. Another working group will be examining the **Indecency and Public Nudity Provisions of the Criminal Code**, and will particularly look at the legal and constitutional issues relating to the feasibility of local regulation of this kind of behaviour.

Finally, it was recommended that an item be referred to the Law Reform Commission of Canada on the issue of **Interaction Between Jury Members and Members of the Public**, especially situations where, an offender or members of the media have contact with individuals who have been members of a jury in a completed case.

A Nominating Committee of the Criminal Section suggested that Alex Pringle, Q. C., a long standing participant in the Criminal Section and defence lawyer in Edmonton, Alberta, be the Chair of next year's Criminal Section. The nomination of Alex Pringle was unanimously adopted.

Report from the Civil Section

Jeffrey Schnoor, Q.C., Chairman of the Civil Section, reported that the Section had an excellent meeting. There was a very high level of quality discussion and very broad participation amongst the delegates.

The Section adopted three new Uniform Acts: **The Uniform Enforcement of Canadian Decrees Act**, which deals with non-money judgments; the **Uniform Cost of Credit Disclosure Act**; and the **Uniform Enforcement of Judgments Conventions Act**.

Three Acts were adopted, subject to the November 30th Rule: They are the **Uniform Settlement of International Investment Disputes Act** and the **Uniform Jurisdiction and Choice of Law Rules in Domestic Property Proceedings Act** and legislation combining **Enforcement of Money and Non-money Judgments**.

The Section directed that four new Acts be prepared for presentation to the 1998 meeting: The **Uniform Data Protection Act**; the **Uniform Securities Transfer Act**; the **Uniform Enforcement of Foreign Judgments Act**, legislation suitable for addition to the **Builders' Liens Act** dealing with the relationship between construction liens and arbitration proceedings.

There will be at least two options or issues papers coming to next year's meeting: further work on **Electronic Commerce** and on **Creditor Access to Future Income Security Plans**.

The Section also considered a number of new projects for addition to next year's Agenda. They will be considered by the Steering Committee over the course of the next year.

The Section's Nominating Committee nominated Ron Perozzo, Q.C. of Manitoba to be the next Chairman of the Civil Section. Ron Perozzo's nomination was unanimously approved.

Report of the Resolutions Committee

The Committee, Carol Snell, Q. C., Glendon Abbott and Frédérique Sabourin, 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, Government of the Yukon, for hosting the 79th meeting of the Conference during which we enjoyed fruitful and stimulating intellectual discussions and lively camaraderie and conviviality.

Howard Kushner, Sydney Horton and Denise Roy, the Organizing Committee, with special thanks to Denise Roy who performed the additional role of facilitator and coordinator of the Conference on behalf of the Yukon government.

Express special thanks to Denise Roy, Louise Cashaback and Amy Thompson, who assumed the responsibility of the secretariat along with Claudette Racette, our Executive Director. Special thanks to Louise Cashaback for providing on sight translation services in the secretariat.

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

All those who prepared papers for the consideration of delegates and those who presented papers.

Richard Mosley, 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 de droit pénal et de droit civil qui ont réussi à nous maintenir au travail et qui nous ont permis d'avoir des échanges fructueux, Jeffrey Schnnor et Earl Fruchtman.

Nous tenons à remercier tout particulièrement Freb Bobiasz pour son excellent travail durant l'année ainsi que son travail en tant que secrétaire de la section pénale durant la conférence.

Nous voulons également adresser nos remerciements à nos collègues de la Conférence nationale américaine, le président Gene Lebrun, ainsi que le président du comité de liaison, M. Jeremiah Marsh et son épouse, Mme Marietta Marsh

Nous souhaitons out particulièrement remercier les interprètes: Pour la section civile, Suzanne Chartier, Brenda Bullock-Paget et Bernard Brugger. Pour la section pénale, Geneviève Wright, Susan Ouriou et Salma Tejpar-Dang.

Special thanks to the technical personnel who contribute greatly to the efficient operation of the Conference, Alex Barber for the Civil Section and Jason Tobin for the Criminal Section.

Special thanks to Chuck Bertrand, the umpire (who allowed the east to win).

Mark Smith, the Guest Speaker at the banquet for his interesting and humorous history of the Yukon.

Enfin, part la présente résolution, nous tenons à témoigner une grande appréciation pour le travail effectué au cours de l'année par Mme Claudette Racette, notre Directrice administrative que participait pour la cinquième fois à notre réunion annuelle.

Moved by Glendon Abbott, seconded by Frédérique Sabourin, that the report of the Resolutions Committee be adopted. Motion carried.

On behalf of the delegates, the President presented bouquets to Denise Roy and Louise Cashaback as a token of the delegates' appreciation.

Report from the Nominating Committee

John Gregory déclare que le Comité des nominations est composé de lui-même en tant qu'ancien président, et de Peter Lown, un autre ancien président. Yvan Roy du Ministère de la justice du Canada et Carol Snell du

Ministère de la justice de la Saskatchewan sont les membres pour la Section pénale.

He commented that in nominating the future Senior Executive of the Conference, the Nominating Committee had to take into account a number of dynamics. Not all of which can be equally satisfied in one year, given that they are not permitted to nominate everyone in the Conference for executive positions. Among the considerations, besides not calling on previous Executive members, is the desire for regional balance, the desire for encouraging participation of both the criminal and civil sections, of looking for representation from civil law and common law background, looking for a mix of English and French language capacity, a gender balance, the participation of public and private sector and maintaining a progressive blend of people with experience and new blood.

Comme président pour l'exercice 1997-98 nous proposons Douglas Moen de la Saskatchewan. Paul Monty, du Ministère de la justice du Québec, est nommé vice-président pour la même période. Lionel Levert, du Ministère de la Justice Canada est proposé pour le poste de président de la Section de rédaction. Ces nominations sont unanimes de la part du Comité.

Motion by John Gregory, seconded by Peter Lown that the report of the Nominating Committee be adopted. Motion carried.

The outgoing President congratulated the new President.

He then expressed his appreciation to the delegates for their cooperation and support during the course of the Annual Conference.

He again wanted to recognize Claudette for the superb work that she does to make these conferences succeed. In his opinion, this was a very productive meeting, everyone enjoyed themselves very much in Whitehorse, the hospitality was superb and the accommodations excellent.

The meeting was then turned over to the new President, Doug Moen, who commented that he was very pleased to accept the honour of taking on the task of President of the Conference and that he will undertake to do the job with enthusiasm.

He stated that the Conference owes Richard Mosley a real sense of thanks for all the work he did in serving as President. Rick Mosley has on a number of occasions this year, spoken on behalf of the Conference. He has represented the Conference in some of the senior places of government across Canada and he has appeared before the Canadian Bar Association and other forums.

The Chair also acknowledged the work of John Gregory, who leaves the Executive. He commented that John continues to do a tremendous amount of work for the Conference: producing the Proceedings; working on projects; and serving the Executive.

He then acknowledged several people who served the Conference with a great deal of distinction over the course of the year: Claudette Racette, who has been mentioned a number of times, has done a tremendous amount of work; and Jeff Schnoor and Earl Fruchtman who had both done great work in serving as Chairs.

The Focus for the Current Year

Stating that we are doing very well as a Conference, the Chair commented that we need to remind ourselves of that. We have had highly productive discussions this year, and have had them successfully over the course of the last few years. There have been days, not as bright days for this Conference, going back some years, and through the leadership of a number of people at this year's Conference, we have been very successful in bringing this Conference into its own. However, there continue to be some serious challenges. We need to widen the participation of a variety of other organizations and people in the Conference. We need to think about the role of the private Bar, the role of the judiciary and the academic community in contributing to this particular exercise.

We need to think about our future in a strategic sense. We need to think of where we are going. How big are we dreaming in terms of the role of the Conference. We must be able to communicate with people and tell them what we are doing. We need to tell the Ministers and the Deputies, we need to be able to tell the Bar, we need to be able to talk to the public, about the role of the Uniform Law Conference.

We also need to encourage implementation, both in the criminal law work that we are doing and the civil law work. We need to think how implementation is going to occur over the next few years.

There are a lot of exciting ideas that we talked about over the course of the past few days. He encouraged the delegates, as they go back to their jurisdictions, to keep the Conference in mind and to keep thinking about the work that can be done.

He also wanted to thank his colleague, Susan Amrud, who will be assisting him over the coming year. Susan has always been a very faithful friend of his in working with the Conference and he very much appreciated that.

He then congratulated the Yukon Commissioners for a marvellous conference, stating that they have done a great job, that they have been a tremendous host.

He commented that the Conference is looking forward to going to Nova Scotia next year.

As a final word, the Chair stated: "Let us be confident about this Conference. We are doing great work and we need to move forward in an enthusiastic way".

Paul Monty exprime ses remerciements à l'assemblée pour la confiance qu'elle lui donne, et il assure le président de son appui dans tous les travaux qu'il entreprendra.

1998 Annual Conference

John Davies stated that it was with great pleasure that the Nova Scotia delegation and the Nova Scotia Department of Justice invite the Commissioners to attend for their 1998 conference in Halifax. He distributed some documentation, the doers and dreamers' guide to Nova Scotia and the 1997 version of Halifax's Visitors' Guide which he hoped delegates would take home with them.

The planning is advancing in Halifax. The Executive has approved the date of Sunday, August 16 for the commencement of the 1998 Conference. The

Committee has arranged to hold the meeting in the Westin in Halifax, formerly the Nova Scotian Hotel.

The Committee has also been checking out the anticipated available supplies of lobsters for next year. He was pleased to be able to report that it is looking very good. The banquet will take place at Shore Club in Hubbard. He hopes that they will be able to provide facilities of the same high quality that was provided in the Yukon this year.

To ensure that the President would find his way to Halifax, he presented Doug Moen with a map of Nova Scotia, and a fisherman's hat, in case of inclement weather.

Adjournment

Upon a motion by Arthur Close, seconded by John Gregory, the meeting was adjourned at 12:05.