

## **CLOSING PLENARY SESSION**

**AUGUST 19, 1999**

### **MINUTES**

#### **Opening Of Meeting**

The meeting opened at 10:50 on Thursday, August 19, 1999 with Paul Monty as Chair and Claudette N. Racette as Secretary.

#### **Words from the President**

The President expressed his sincere appreciation to the Province of Manitoba for the wonderful banquet dinner and most interesting evening on Wednesday. He commented that the Manitoba license plates say "Friendly Manitoba", and that indeed it was.

He thanked Catherine Kane for the excellent job she did as Secretary to the Criminal Section this year.

#### **Report from the Criminal Section**

Le Président de la Section Pénale, Yvan Roy, déclare que les discussions de la Section ont été prolongées. Indeed, most mornings the Section meetings started at 8:30 because there was so much material to go through. Six discussion papers were produced for the meeting. The Section started off with 61 Resolutions, and ended up discussing more than 61 because some came from the floor. There was so much work that the Section had to drop one of the discussion papers.

The discussions were absolutely terrific. It was of very high calibre and indeed from the prospective of the Federal delegation, once again this has demonstrated how

## CLOSING PLENARY SESSION

relevant the ULCC is to the work that is done with respect to Criminal Law. The discussions were conducted with a view to reaching solutions, instead of trying to advance particular agendas. Most of the participants, if not all, were delighted with the quality of the work that was done on an extremely wide and broad set of issues. Delegates are bringing back to their own jurisdictions, only good memories of the Conference and the hospitality they received from Manitoba, and in particular, from our incoming President, Jeff Schnoor. This has been a terrific conference and we are looking forward to another terrific one next year in Victoria.

### **Report from the Civil Section**

The Chair, Arthur Close, Q.C., reported that the Civil Section met to consider fourteen separate agenda items over the course of the Conference. These included two information reports: A report on the activities of the Federal Government in relation to *Private International Law* matters and a report on the work of the American Uniform Law body, NCCUSL. Also considered were three status reports on the following topics: *Civil Enforcement*; *Data Protection*; and *Uniform Securities Transfer Act*. In connection with the Section's *Commercial Law Strategy*, the Section considered a report on the overall progress made on the project and where we go from here, and then considered more detailed reports on three different elements of the strategy where work had not previously commenced. In particular, the Section received and considered, a major paper on commercial leasing, which set out perimeters for possible future work. It considered a report from the President of the Law Commission of Canada on steps being taken in connection with a project on *Federal Security Interests* and what has happened there and what is expected to happen over the next two years. Finally, it received a preliminary analysis of the revisions of *Article 9 of the Commercial Code*, which, as most of you know, is equivalent to the *Canadian Personal Property Security Acts*, attempting to identify which of the innovations there might be suitable for adoption into Canadian Law. This was a preliminary analysis and a final analysis will be coming forward in due course.

## UNIFORM LAW CONFERENCE OF CANADA

Reports were also received and substantial progress made for the development of uniform legislation on the following topics: *The Enforcement of Foreign Judgments* and *Unclaimed Intangible Property*.

A joint session was held with the Criminal Section to consider a paper on *Corporate Criminal Liability*, and following the joint session, the Section discussed the way in which it might assist the Criminal Section if further work in this area is to go forward. Our conclusion was that if work was to continue, it should probably be carried forward as wholly as an initiative of the Criminal Section, but there were some individual members of our Section who expressed a personal interest in participating. So, essentially, it will be up to the Criminal Section whether further work is carried on, but particular individuals on the Civil side who are interested in the area might be invited to join a Working Group if that is formed. The Section Chair suggested, that individual members of the Civil Section who are interested in participating in any further work make their interest known to the Chair of the Criminal Section. The Section, expressed its willingness to make space on its Agenda in the year 2000 to do as it did this year, and act as a sounding board for any further developments that might come forward.

In the light of the conclusions of the Civil Section on this matter, there will not be any resolution from the joint session which would have been Agenda item 4.

The most important part of what the Section is about is the creation of the Acts. That is the product of its work. Three Acts were adopted this year. Two of these were adopted as Uniform Acts and the other one was adopted as a Model Act. The two Uniform Acts were: *Electronic Commerce Act* and *Uniform Registered Retirement Plan Income Exemption Plan Act*. The Model Act was a *Limited Liability Partnership Act*. For the benefit of the members of the Criminal Section who may not be familiar with this distinction, when an Act is adopted as a Uniform Act, it generally means that it carries with it the notion that jurisdictions should adopt this as a matter of good policy. When an Act is adopted as a Model Act, it carries a message that jurisdictions may or may not

## CLOSING PLENARY SESSION

want to proceed in a certain subject area, but if they do wish to proceed, the way that it is dealt with in the Model Act is a good regime to follow. Of the three Acts that were adopted, except for the English version of the *Income Retirement Plan Act*, which was adopted immediately in its English version, the rest were adopted to a procedural rule known as the November 30th Rule, or the September 30th Rule in the case of one of them which allows for some drafting and final fine tuning to be done, to the extent that it is necessary, and then finalized drafts are circulated to the jurisdictions on the negative option basis.

In addition to that, a number of new topics were considered. Topics in relation to *Registered Domestic Partnership Agreements*, reopening the *Uniform Sales of Goods Act*, reopening the *Uniform Survival of Actions Act*, the *Uniform Liens Act*, and the *Wills Act*, in relation to what is sometimes called *Substantial Compliance*. Consideration was also given to a *Uniform Mediation Act*, and a project aimed at *Uniform Rules for Choice of Law in Tort*. No final decisions were taken on any of these, but they are going to be referred to the Section's Steering Committee for further deliberation and discussion in the light of the discussion that took place in the Section.

### **Report from the Resolutions Committee**

Donald Piragoff reported that the Resolutions Committee, composed of Réjean Babineau, Chris Curran, Frédérique Sabourin and he, would like to present the following Resolution. The Resolution will be represented in three parts, between Frédérique Sabourin, Chris Curran and he.

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

We thank the Department of Justice, Government of Manitoba, for hosting the 81st meeting of the Conference, during which we enjoyed fruitful and stimulating intellectual discussions and lively camaraderie and conviviality.

We express particular appreciation to Jeffrey Schnoor, Bruce MacFarlane, Ron Perozzo, Rob Finlayson and Tom Hague, the members of the Organizing Committee. With a special thank you to Wendy Bergmann, who performed the additional role of facilitator and coordinator of the Conference on behalf of the Manitoba Government.

We express special gratitude to Wendy Bergmann, Chantal Berard, Elaine Elliott, Roxanne Gagné and Rosie Hudson, who assumed the responsibility of the Secretariat along with Claudette Racette, our Executive Director.

The efforts of the drafting units of the governments of Canada, Québec, Saskatchewan, New Brunswick, Yukon and Ontario are greatly appreciated for the translation of various documents used by the Conference.

We acknowledge the excellence of the papers prepared for the consideration of delegates and thank those who prepared and presented them.

We express particular appreciation to Paul Monty, our outgoing President for all of 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, Yvan Roy et Arthur Close, qui ont réussi à nous maintenir au travail et nous ont permis d'avoir des échanges fructueux.

Nous tenons à remercier tout particulièrement Catherine Kane pour son excellent travail durant l'année ainsi qu'an titre de secrétaire de la section pénale durant la conférence.

## CLOSING PLENARY SESSION

Nous voulons également adresser nos remerciements à nos collègues de la Conférence nationale américaine, le président John McClaugherty, ainsi que le président du comité de liaison, Jeremiah Marsh.

Nous souhaitons particulièrement remercier les interprètes: pour la section civile, Carole Lévesque, Suzanne Hoard, Ronald Dandenault, et pour la section pénale, Dorothy Charbonneau, Hélène Régimbald et Carole Chenier.

We express special thanks to the technical personal who contributed greatly to the efficient operation of the Conference, Chris Penney for the Civil Section and Brad Smith for the Criminal Section.

We would like to thank Bernie Christianson, President of the Law Society of Manitoba for his welcoming remarks and the Law Society of Manitoba for hosting the opening reception in the Summit Room on Sunday evening.

We acknowledge that the annual East/West baseball game did not go forward this year, allegedly because of unfavorable weather. Note that the West will retain possession of the coveted Conference trophy for an additional year, and a vow that both sides will take to the field next year with even greater vigor to determine the issue of baseball superiority.

We express our appreciation to the organizers of the closing reception at Fort Gibraltar for providing a cultural and culinary experience in a setting that promoted the camaraderie and conviviality of our delegates.

Enfin, 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 sixième année à notre réunion annuelle.

Le Président remercie le Comité pour leur rapport. Il ajoute ses remerciements à Claudette Racette pour son travail extra-ordinaire. Il déclare que la tâche de Président, c'est une belle tâche lorsqu'on a Claudette à nos côtés Il rajoute que cela fut très agréable d'organiser une conférence, à Winnipeg, avec l'aide de Jeff et son équipe.

### **Report from the Nominating Committee**

Doug Moen reported that the Nominating Committee this year consisted of himself as Chair, Richard Mosley, Peter Lown, John Gregory, Elizabeth Sanderson and Paul Monty.

The Nominating Committee acknowledges the willingness of Lee Kirkpatrick of the Yukon in the Criminal Section and Arthur Close of British Columbia in the Civil Section, to serve next year as Chairs of those Sections. We very much thank them for their willingness to take on that task.

Doug Moen congratulated Paul Monty on his service to this Conference as President. He thanked him for his leadership and acknowledge that Paul is willing to serve as Immediate Past President of the Conference in the coming year.

It is the intention of the new Executive Committee to consult with the Jurisdictional Representatives around some forward planning with respect to the selection of Chairs in the coming years. This way, in the course of the new year we will know, some period of time in advance, who the succeeding Chairs might be, to allow for some forward planning.

He then reported, on behalf of the Nominating Committee, the following nominations: Jeff Schnoor of Manitoba as President of the Conference, Earl Fruchtmann from Ontario as Vice President and of course, Paul Monty as Past President.

## CLOSING PLENARY SESSION

The new President, Jeff Schnoor took over as Chair for the remainder of the meeting. Il tient a remercier Paul Monty de son excellent leadership durant l'année et pendant la Conférence. Paul a travaillé avec engagement et sagesse afin d'avancer les intérêts de la Conférence. Il déclare qu'il a appris beaucoup en travaillant avec Paul Monty et que c'est un honneur et un plaisir d'appeler ce dernier, un cher collègue, un cher ami.

He also wanted to salute Doug Moen, who after five years of outstanding service, leaves the Conference Executive. Among other contributions, Doug has been a leader on the Conference's *Commercial Strategy* and despite the absence of a formal title, he will continue to be heavily involved.

The Chair then commented that he believes that it is obvious to everyone at the Conference that over the last number of years, the Conference has been rising in stature, in quality and in credibility. That is owing to a number of reasons and most importantly the efforts of Presidents and members of past Executive Committees. The Conference is doing important, relevant and needed work, and has clearly renewed interest by the Federal Government in implementing the work of the Criminal Section.

Attendance is as good as it has ever been, in his memory, and as Bruce MacFarlane noted at the banquet dinner, the diversity of attendance is improving significantly. We have momentum and our task over the next number of years is to build on that momentum. We have to continue to build partnerships and encourage others to join us in the important of building the Canadian legal structure. We have to strengthen and depend upon our relationships with the private Bar, the Bench, the academic community and the media. We also have to raise our profile within our governments. Difficult as it sometimes is, and being within government, I know how difficult it can be, we all have a responsibility as Commissioners to make the case to our respective governments for the enactment of Uniform Acts that have been adopted by the Conference. By the same token, the Conference has a responsibility to the Jurisdictional



Representatives and the rest of the Commissioners, to provide you with the tools to allow you to make that case effectively.

So, these are some of the issues that I hope to discuss with as many of you as possible over the next year. But for all of these issues and opportunities, the fact remains that the Uniform Law Conference is a great organization, with a proud history and a bright future, in my opinion. It is an honor and a privilege to serve as your President and I appreciate the confidence.

### **Report from the Host Jurisdiction of the Year 2000 Conference**

On behalf of the B.C. delegation and the B.C. Ministry of the Attorney General, Russell Getz extended a warm invitation to all members of the Conference to next year's meeting in Victoria. The Conference will be held at the Laurel Point Inn in Victoria, from August 16 to 20. The Laurel Point Inn will be the site of accommodations and meetings.

### **Report on the Year 2001 Conference**

The Chair stated that in the normal rotation, the ULCC meeting in 2001 would be held in Ontario. On behalf of the Province of Ontario, Earl Fruchtmann reported that he anticipates that the normal rotation will occur.

The Chair reported that the 2001 meeting would be held one week earlier than usual, because in the year 2001, the CBA has stolen our week.

### **Presentation**

## CLOSING PLENARY SESSION

The Chair asked Wendy Bergmann to come forward to the head table. He presented her with a bouquet of flowers and thanked her for the outstanding job she did as Conference Coordinator for the Province of Manitoba.

### **Adjournment**

There being no further business, the meeting adjourned at 11.25 a.m.